

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).5618/2013

(Arising out of impugned final judgment and order dated 07-09-2012 in Crl.A No.313/2004 passed by the High Court Of Uttarakhand At Nainital)

STATE OF UTTARAKHAND

Petitioner(s)

VERSUS

MADAN & ANR.

Respondent(s)

(FOR EXEMPTION FROM FILING O.T. ON IA 14329/2013)

Date : 11-01-2018 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUDFor Petitioner(s) Mr. Rahul Kaushik, Adv. [AOR]
Ms. Bhuvneshwari Pathak, Adv.
Ms. Shilpi Satyapriya Satyam, Adv.For Respondent(s) Mr. Sanjay Jain, Adv.
Mr. Sudarshan Singh Rawat, Adv. [AOR]UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Subhash Chander)
AR-cum-PS(H.S. Parasher)
Assistant Registrar

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.71 OF 2018

[Arising out of S.L.P. (Crl.) No.5618 of 2013]

State of UttarakhandAppellant

Versus

Madan & Anr. . . .Respondents

O R D E R

Leave granted.

Heard Mr. Rahul Kaushik, learned counsel for the appellant and Mr. Sanjay Jain, learned counsel for the respondents.

The respondents stood convicted under Sections 302/34, 364 and 201 of the IPC in Sessions Trial No.388 of 1995. The learned trial Judge found that the prosecution had been able to establish the charges against the respondents on the basis of circumstantial evidence. He adverted to the last scene theory, recovery and other circumstances.

The High Court, as we find from the impugned judgment, has on a spacious ground, set aside the judgment by opining that there is no positive evidence that it was a case of homicide and not an accident.

In our considered opinion, the High Court would have been well advised to advert to the evidence on record and thereafter expressed the opinion on the criminal appeal of this nature. The cryptic order is unacceptable. It does not meet the parameters laid down for disposal of appeal.

Resultantly, the appeal is allowed, the judgment of acquittal passed by the High Court is set aside and the matter is remitted to

the High Court for fresh disposal of Criminal Appeal No.313 of 2004.

As we have remitted the matter to the High Court and the respondents have been at large, we direct that they shall be granted bail by the High Court on filing an application within four weeks from today. The appeal shall be disposed of by appropriate reasoned order within six months hence.

.....CJI.
[DIPAK MISRA]

.....J.
[A.M. KHANWILKAR]

.....J.
[Dr. D.Y. CHANDRACHUD]

New Delhi.
January 11, 2018.