

CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL Nos.729-730 OF 2016
(ARISING OUT OF SLP(CRL.)Nos.3894-3895 of 2013)
NASEEM
VERSUS
STATE OF UTTARANCHAL ETC.

.....APPELLANT
.....RESPONDENT

O R D E R
Leave granted.

We have heard Mr.Salman Khurshid, learned senior counsel for the complainant/appellant. We have also heard Mr.J.H.Jafri, learned counsel for the accused/respondent. Mr.Rajiv Nanda, learned counsel, has entered appearance of behalf of the State of Uttarakhand.

A perusal of the impugned order passed by the High Court reveals, that there is no detailed examination of the statements of the prosecution witnesses. It was imperative for the High Court, being the first appellate Court, to consider the statements of the prosecution witnesses in detail, before any of the witnesses can be classified as wholly reliable or wholly unreliable (or not falling in either of the above categories). We have perused the First Information Report, which was recorded within three hours of the occurrence. There is also the

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statement of an injured eye witness (P.W.2 - Mohd.Munnawar). We are satisfied, that a closer examination of the prosecution case ought to have been made by the High Court. Rather than expressing our individual views on the merits of the controversy, we are satisfied with setting aside of the impugned order dated 12.12.2012, and remanding the case to the High Court, for fresh consideration. We request the High Court to re-hear the appeal and dispose of the same on merits, in accordance with law. Needless to mention, that we should not be taken to have expressed any opinion on the merits of the controversy. The instant appeals are accordingly disposed of. As a sequel to the above, pending interlocutory application, if any, also stands disposed of.

.....J.
(JAGDISH SINGH KHEHAR)

.....J.
(ARUN MISHRA)

NEW DELHI;
AUGUST 02, 2016.

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ITEM NO.17 COURT NO.3 SECTION II
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Petition(s) for Special Leave to Appeal (Crl.) No(s).
3894-3895/2013
(Arising out of impugned final judgment and order dated 12/12/2012 in CRLR No.190/2004 and GA No.244/2006 passed by the High Court of Uttarakhand at Nainital)
NASEEM Petitioner(s)
VERSUS Respondent(s)
STATE OF UTTARANCHAL ETC.
(With appln.(s) for exemption from filing O.T. and office report)
Date : 02/08/2016 These petitions were called on for hearing today.
CORAM :
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Mr.Salman Khurshid, Sr.Adv.

Mr.Imtiaz Ahmed, Adv.

Mrs.Naghma Imtiaz, Adv.

For M/s. Equity Lex Associates,Adv.

For Respondent(s) Mr.J.H.Jafri, Adv.

Mr. Chanchal Kumar Ganguli, Adv.

Mr.Rajiv Nanda, Adv.

Upon hearing the counsel the Court made the following

O R D E R

Leave granted.

The instant appeals are disposed of in terms of the signed order.

As a sequel to the above, pending interlocutory application, if any, also stands disposed of.

(SATISH KUMAR YADAV)

(INDU POKHRIYAL)

AR-CUM-PS

COURT MASTER

(Signed order is placed on the file)