

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).3011/2007

(From the judgment and order dated 26/10/2006 in CRLA No. 1955/2001 of The HIGH COURT OF UTTARANCHAL AT NAINITAL)

PHOOL SINGH Petitioner(s)

VERSUS

STATE OF UTTARANCHAL Respondent(s)

(With appln. for exemption from filing O.T. and appln.for bail)

Date: 26/11/2007 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE C.K. THAKKER
HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. Tara Chandra Sharma,Adv.
Ms. Neelam Sharma. Adv.
Mr. Kishan Datt, Adv.

For Respondent(s) Mr. Jatinder Kumar Bhatia,Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.
The appeal is allowed.

[Usha Bhardwaj] [Vinod Kulvi]
Court Master Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO..... OF 2007
Arising out of SLP (Crl) No.3011 of 2007

Phool Singh Appellant(s)

Versus

State of Uttaranchal Respondent(s)
(Now State of Uttarakhand)

ORDER

Leave granted.

We have heard earned counsel for the parties.

The present appeal is filed against the order passed by the trial court and confirmed by the High Court. So far as the trial court is concerned it convicted the appellant under Section 323 read with Section 34 of the Indian Penal Code (for short 'IPC') and sentenced him to undergo R.I. for six months, under Section 324 read with

Section 34 IPC and sentenced him to undergo R.I. for eight months, under Section 452 IPC and sentenced him to undergo RI for six months and under Section 304 Part II IPC and sentenced him to undergo RI for four years. All the sentences were ordered to run concurrently.

The appellant challenged the order of conviction and sentence by filing an appeal in the High Court. The High Court dismissed the appeal observing that the trial court had taken a liberal view and no interference was called for.

We have heard learned counsel for the parties.

On the basis of the evidence believed by both the Courts and particularly sworn testimony of PW-1 Suresh injured eye-witness and informant, it cannot be said that by

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convicting the appellant either the trial court or the appellate court had committed any error. We, therefore, uphold the conviction of the appellant.

Regarding sentence, however, our attention was invited by the learned counsel for the appellant to a certificate issued by the District Jailor, Haridwar. It was stated that the appellant is aged about 87 years. The counsel for the appellant also stated that the appellant remained in jail for about one year and three months. Considering the totality of facts and circumstance of the case, ends of justice would be met if the sentence undergone is treated sufficient and is reduced to the period already undergone. Ordered accordingly. The appellant who is in custody is ordered to be released forthwith, if not required in connection with any other case.

The appeal is allowed accordingly.

.....J.

[C.K. THAKKER]

.....J.
[MARKANDEY KATJU]
NEW DELHI,
NOVEMBER 26, 2007.