

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1112 OF 2012

HANIF @ HALKA

APPELLANT

VERSUS

STATE OF UTTARAKHAND

RESPONDENT

WITH

CRIMINAL APPEAL NO. 1675 OF 2012

O R D E R

These two appeals arise out of the common judgment and order dated 26.06.2012 passed by the High Court of Uttarakhand in Government Appeal No. 370 of 2003 reversing the acquittal of the appellants herein on the charge under Section 302 read with Section 34 of the Indian Penal Code ("IPC") and charge of Section 394 read with Section 397 IPC in Crime Case No. 716 of 1995, P.S. Kotwali Dehradun by the learned Additional Sessions Judge wherein he has after analysing the evidence on record held that the charge is not proved and they were acquitted. The State has preferred the appeal before the High Court of Uttarakhand questioning the correctness of the finding recorded by the learned Sessions Judge inter alia contending that the finding recorded by the learned trial Judge despite

eye-witnesses PW-3 and PW-4 and other evidence on record is erroneous and perverse and requested for interference by the High Court in exercise of its appellate jurisdiction.

Mr. Siddharth Luthra and Mr. Basava Prabhu S. Patil, learned senior counsel appearing on behalf of the appellants, invited our attention to the impugned judgment passed by the learned trial Judge and the impugned judgment of the High Court and also invited our attention elaborately taking us to the evidence of prosecution witnesses, PW-3, PW-4, PW-9 and PW-1 to bring home the point that the finding recorded by the High Court is on the basis of assumptions and conjectures, though the trial court has on proper appreciation of evidence on record and after considering the entire evidence on record and it has held that the prosecution has failed to prove the charge against the appellants accused persons. The appellants are not found guilty for the charge under Section 302 read with 34 IPC and Charge under Section 394 read with Section 397 IPC. The learned senior counsel elaborately invited our attention to the finding recorded by the learned trial Judge on the basis of evidence to show that the appreciation of evidence by the trial Judge is proper and the High

Court on assumptions and conjectures has held that the finding is perverse and exercised its appellate jurisdiction to interfere with the finding of acquittal recorded by the Sessions Judge.

We have very carefully considered each one of the submissions made by the learned senior counsel and gone through the correctness of the findings recorded by the High Court on the charges, particularly in Paragraphs 22 to 24 of the impugned Judgment wherein it has come to the conclusion that the trial court has recorded its finding erroneously without proper appreciation of the eye-witnesses evidence, namely, PW-3 and PW-4 and the High Court has rightly reversed the finding of acquittal after recording the reasons in Paragraphs 22 to 24 of the impugned judgment by holding that the findings on the charges and acquittal of the appellants suffer from perversity. The correctness of the same is seriously questioned by the learned senior counsel appearing on behalf of the appellants herein in these appeals.

After careful consideration of each one of the contentions raised by the learned senior counsel on behalf of the appellants and examination of the correctness of the finding recorded by the High Court in the impugned judgment and after going through the

same with reference to the rival contentions urged, and also placing reliance upon the evidence of PW-3 and PW-4, which evidence is corroborated with the evidence of PW-1, in our considered opinion, the High Court has not committed any error in arriving at a conclusion that the findings of the trial court on the charges against the appellants are perverse and are not correct. We are in agreement with the view taken by the High Court in finding of guilt of the charges made against the appellants and convicting and sentencing them.

In view of the above, we do not find any good reason for interference with the impugned judgment and order passed by the High Court.

Consequently, the appeals are dismissed.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
JULY 13, 2016

ITEM NO.110

COURT NO.9

SECTION II

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

Criminal Appeal No(s). 1112/2012

HANIF @ HALKA

Appellant(s)

VERSUS

STATE OF UTTARAKHAND

Respondent(s)

(With appln. (s) for permission to urge addl. grounds and office report)

WITH

Crl.A. No. 1675/2012

(With Office Report)

Date : 13/07/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Mr. Basava Prabhu S. Patil, Sr. Adv.
Crl.A. 1112/12 Dr. Ashutosh Garg, Adv.
Mr. Deepak Mishra, Adv.
Mr. Dhananjay Garg, Adv.

Crl.A. 1675/12 Mr. Siddarth Luthra, Sr. Adv.
Mr. Nitin Saluja, Adv.
Mr. Ashwani Bhardwaj, Adv.

For Respondent(s) Mrs. D. Bharathi Reddy, Adv.
Ms. Shivani Khandekar, Adv.

Mr. Rahul Kaushik, Adv.
Ms. Bhuneshwari Pathak, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.
Pending application(s), if any, stands disposed of.

(S. K. RAKHEJA)
COURT MASTER

(SUMAN JAIN)
COURT MASTER

(Signed order is placed on the file)