

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 978 OF 2009
(Arising out of SLP(Crl.) No. 6827/2008)

Bhagat Singh

.. Appellant(s)

Versus

State of Uttarakhand

.. Respondent(s)

ORDER

Leave granted.

This appeal is directed against final judgment and order dated 30th April, 2009 passed by the High Court of Uttarakhand at Nainital, rendered in Criminal Appeal No. 590 of 2001. By the impugned order, the conviction of the appellant for offence punishable under Section 307 of the Indian Penal Code, 1860 and the award of sentence of rigorous imprisonment for a period of five years has been affirmed.

When the matter came up for motion hearing on 8th September, 2008, while issuing notice only qua quantum of sentence, it was recorded that according to the appellant he is a freedom fighter and at present aged about 90 years, sick and feeble.

In the affidavit, dated 22nd March, 2009 filed on behalf of the State, it is stated that as per the extract of

the family register as well as ration card, the age of the appellant is about 80 years.

Having heard learned counsel for the parties and bearing in mind, the age of the appellant, as verified by the State, we are of the view that in the instant case the award of sentence for the period of sentence already undergone by the appellant would meet the ends of justice.

Accordingly, while maintaining the conviction of the appellant for the aforementioned offence, his sentence is modified to the period already undergone. The appellant shall be released forthwith unless he is required in any other case.

The appeal stands disposed of accordingly.

.....J.

[D.K. JAIN]

.....J.

[R.M. LODHA

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NEW DELHI,
MAY 08, 2009.

JUDGMENT