

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1734 OF 2010

PREM SINGH

Appellant(s)

VERSUS

THE STATE OF UTTARAKHAND

Respondent(s)

O R D E R

Since both the amicus curiae appointed earlier by this Court have not appeared and there is no other representation on behalf of the appellant, we have requested Mr. G. V. Chandrashekar, learned counsel, to assist the court as amicus curiae, who has graciously accepted our request.

Heard Mr. G. V. Chandrashekar, learned amicus curiae, and Mr. Tanmay Aggarwal, learned counsel appearing for the respondent.

The appellant and the another accused were tried for offences punishable under Sections 396, 412, 323 and 147 IPC. The date of the incident is 14.06.1983. The trial court convicted the appellant as well as another accused for the aforementioned offences and sentenced the accused to undergo imprisonment for life under Section 396 IPC. As on the date of conviction by the trial court, i.e. on 04.11.1985,

the appellant and the other accused were in custody.

The High Court, in appeal, modified the Judgment by convicting the accused under Section 394 IPC instead of Section 396 IPC. However, the appellant and the co-accused were acquitted from charges under Sections 147, 323 and 412 IPC. The appellant and the co-accused were sentenced to undergo imprisonment for life.

The case of the prosecution, in brief, is that in the intervening night of 13th and 14th June, 1983, five miscreants including the appellant, armed with sword and lathies, entered the house of Mangal Singh (one of the deceased) and started assaulting him. Due to the shouts, his wife Satya Kaur (since deceased) raised alarm, on which she was also beaten by the miscreants. PW2, PW3 and PW4 were the eye-witnesses of the incident. PW2 (injured eye-witness) was the sister of Mangal Singh (deceased). PW3 was the neighbour of the deceased. PW4 was also residing in nearby place and he came to the help of Mangal Singh (deceased) after hue and cry. All the three eye-witnesses saw the miscreants causing injuries to Mangal Singh, Satya Kaur and Prakash Kaur.

The accused, being threatened by the eye-witnesses, fled away from the scene with gold earrings and silver articles of Prakash Kaur. The face of the accused were seen by the eye-witnesses.

Immediately thereafter, i.e. at 3.35 AM on 14.06.1983, an FIR was lodged by PW2. As mentioned supra, all the five accused were chargesheeted and were tried for the aforementioned offences.

All the three eye-witnesses withstood in their cross-examination and have deposed about the incident consistently and cogently. In the cross-examination, the defence was not able to shake the credibility of the eye-witnesses.

The trial court as well as the High Court concurrently and rightly concluded that the eye-witnesses are reliable and their depositions cannot be doubted. In view of the consistent evidence of the eye-witnesses, in our considered opinion, the Judgment of conviction under Section 394 IPC need not be interfered with. However, we find from the records that the appellant appears to have already undergone more than 14 years of sentence till this date.

Having regard to totality of facts and circumstances, interest of justice would be met if the sentence is modified to the period already undergone by the appellant. Ordered accordingly.

Accordingly, it is directed that the appellant shall be released from jail forthwith, if not required in any other case.

The appeal is disposed of with the modification
of the impugned Judgment, as above.

.....J.
[MOHAN M. SHANTANAGOUDAR]

.....J.
[NAVIN SINHA]

New Delhi;
April 05, 2018.

ITEM NO.107

COURT NO.5

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). 1734/2010

PREM SINGH

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VERSUS

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Date : 05-04-2018 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Mr. G. V. Chandrashekar, Adv. (Amicus Curiae)

Mr. Ravindra S. Garia, AOR (Not Present)

For Respondent(s) Mr. Tanmay Aggarwal, Adv.
Mr. Shivam Sharma, Adv.
Mr. Jatinder Kumar Bhatia, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

Pending Interlocutory Applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER(RENU DIWAN)
ASSISTANT REGISTRAR

(Signed order is placed on the file)