

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1631 OF 2019
(@ out of SLP (CrI.) No. 5252/2019)

RANBIR SINGH & ORS.

Appellant(s)

VERSUS

THE STATE OF UTTARAKHAND

Respondent(s)

WITH

CRIMINAL APPEAL NO. 1632 OF 2019
(@ out of SLP (CrI.) No. 5258/2019)

O R D E R

Leave granted.

Five persons were arrayed as accused in Session Trial No.14 of 2011 on the file of District & Sessions Judge, Tehri Garhwal, for the offences punishable under Section 304 read with 201 IPC.

The case of the prosecution as culled out from the judgement of the Trial Court was as under:

“Prosecution case in brief is that Kirti Singh Rana s/o late Sri Shiv Singh Rana, R/o Village Srikot Patti Kemar, P.S. Ghansali, District Tehri Garhwal submitted a tehrir to Police Station Ghansali against the unknown persons with the allegation that his son Ravindra Singh Rana aged about 22 years had gone from the home on 4.11.2010 at 2.00P.M. stating that he is going to the house of his friend at Thati Budakedar and on 5.11.2010 on the day of Laxmi Pujan he will surely return to the house. On 6.11.2010 at about 12.00 P.M., some people saw a dead body laying left side of Chamiyala-Budakedar Motor Road and when he reached there he identified that the deceased was his son and further requested to lodge his-report and take the legal action against the accused persons. On the basis of said Tehrir, FIR was lodged. On the same day, S.I. Dinesh Singh with other police personnel reached at spot and prepared the

inquest report, prepared the sketch of body, letter to CMO, letter to R.I., taken the sample of seal, taken blood stained and plaint earth, prepared memo.

2.The post mortem of the body was conducted on 7.11.2010 at District Hospital Baurari, Tehri Garhwal and as per post mortem report the following injuries were found on the person of the deceased 1-abraded contusion tnt on rt. Side upper part of forehead 4 cm x 3.0 cm-reddish in colour. On dissection, bone. The wound is fracture, on opening the skull monering are congested. Henetema tnt. On outer surface of rt. Surface hemorrhage 2-multiple brasion and contusion tnt. All over the body-reddish in colour. As per post mortem report cause of death is coma d/t A.M. Head injury No.1 caused by blow to hard and blunt object. On 14.11.2010 the ash of the bed sheet was recovered on the pointing out of accused Kripa Lal. Investigating Officer prepared site plan, recorded the statements of witnesses and after arrest of accused submitted charge sheet against them."

The prosecution led oral and documentary evidence. After considering rival submissions, the Trial Court by its judgment and order dated 21.1.2013 acquitted all the accused of the charges levelled against them. However, certain directions were passed which are evident from the operative portion of said judgment:

"All the accused are acquitted from the charge u/s 304 & 201 of IPC. All the accused are on bail, their bail bonds shall remain continue for a period of six months as per Section 437-A of Cr.P.C. if there is no appeal their bond shall be cancelled and sureties shall be discharged after expiry of a period of six month from the judgment. Further to ensure the free and fair investigation let a copy of this judgment be sent to Sri Satyavrat Bansal, Director General of Police, Government of Uttarakhand, Police Headquarter Dehradun and Mrs. Vinita Kumar, Principal Secretary, Home Affairs, Govt. of Uttarakhand, Dehradun to lodge a case against Sri Dhiraj Mani Baluni, Investigating Officer and PW-2 Mukesh Chauhan, PW-4 Ranbir Singh, PW-5, Vishal Singh Rana and PW-7 Ramesh Singh Rawat u/s 218 of IPC and Section 3(2)(ii) and (vii) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989."

The judgment of acquittal was appealed against by the State.

But the appeal was delayed by 164 days and the High court refused to condone the delay (Delay Application No.350 of 2013 in Cr1.M.A. No.813 of 2013). Consequently, the appeal stood dismissed.

Aggrieved by the directions passed by the Trial Court which are quoted hereinabove, the concerned persons, namely, the Investigating Officer and PWs 2,4,5 and 7 had also preferred applications under Section 482 Cr.P.C. being Criminal Miscellaneous Application Nos.350 and 813 of 2013 which were rejected by the High Court vide order which is presently under appeal.

Heard Mr. Deepak M. Nargolkar, learned senior advocate in support of the appeal and Mr. Rajiv Nanda, learned advocate for the State.

We have gone through the record and do not find any material on the basis of which it could possibly be said that the course of investigation was deliberately twisted or changed to confer any advantage on the accused who were facing trial.

The case of the prosecution was based purely on circumstantial evidence and the acquittal of the accused was premised on the assessment that the prosecution had failed to establish its case. That does not necessarily mean that the investigator and the concerned witnesses ought to be proceeded against for the offence under Section 218 IPC.

There is no reason why such prosecution be initiated against

the aforesaid investigating officer and the concerned witnesses.

We, therefore, allow these appeals and set aside the orders passed by the trial Court and the High Court.

.....J.
(UDAY UMESH LALIT)

.....J.
(VINEET SARAN)

New Delhi;
November 4, 2019.

ITEM NO.23

**COURT NO.5
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

SECTION II

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 5252/2019

(Arising out of impugned final judgment and order dated 15-03-2019 in CRLMA No. 350/2013 passed by the High Court Of Uttarakhand At Nainital)

RANBIR SINGH & ORS.

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND

Respondent(s)

(IA No.88792/2019-EXEMPTION FROM FILING O.T.)

WITH

SLP(Cr1) No. 5258/2019 (II)

(IA No.88910/2019-EXEMPTION FROM FILING O.T. and IA No.88908/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 04-11-2019 These petitions were called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN**

**For Petitioner(s) Mr. Deepak M. Nargolkar, Sr. Adv.
Mr. Shakil Ahmed Syed, AOR
Mohd. Parvez Dabas, Adv.
Mr. Uzmi Jameel Husain, Adv.
Mr. Vaibhav Tandon, Adv.**

**For Respondent(s) Mr. Jaswant Singh Rawat, AOR
Mr. Vikas Negi, Adv.**

**Mr. Rajiv Nanda, AOR
Mr. Aviral Saxena, Adv.**

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications, if any, shall also stand disposed

of.

**(INDU MARWAH)
COURT MASTER**

**(NISHA TRIPATHI)
BRANCH OFFICER**

(Signed order is placed on the file)