

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 475 OF 2013
(@SPECIAL LEAVE PETITION(CRL.)NO.6215 OF 2010)

RAM CHANDRA VERMA

APPELLANT

VERSUS

STATE OF UTTARAKHAND

RESPONDENT

O R D E R

1. Leave granted.

2. This appeal by special leave is directed against the judgment and order passed by the High Court of Uttarakhand at Nainital in Criminal Jail Appeal No.243 of 2006, dated 18.11.2009. By the impugned judgment and order, the High Court has confirmed the judgment and order passed by the Additional Sessions Judge/Second Fast Track Court, Udham Singh Nagar, Uttarakhand in Session Trial No.68 of 2003, whereby and whereunder the learned Trial Judge has convicted the accused person under Section 302 of the Indian Penal Code, 1860 (for short 'the IPC') and sentenced him to undergo imprisonment for life along with a fine of Rs.5,000/- and, in default of payment of fine, to further undergo imprisonment of one year.

3. The prosecution case in brief is: On 29.11.2002, the appellant-accused and one Sunil Kumar Verma (for short 'the deceased') were returning home from work on a bicycle. The appellant was the pillion rider on the said bicycle driven by the deceased. On

the way, the appellant shot at the back of the deceased's head by a country made pistol, whereafter the deceased fell from the bicycle and died on the spot. PW-1, Anil Kumar Verma and PW-2, Mohd. Sazid witnessed the incident while they were heading towards the house of the deceased. They tried to catch hold of the appellant however he fled away. Thereafter, PW-1 lodged an FIR at P.S. Jaspur for offence punishable under Section 302 of the IPC.

4. Upon investigation, the appellant was charged for offences under Section 302 of the IPC and Section 25 of the Arms Act, 1959 and the case was committed for trial.

5. During the trial, the prosecution relied upon eight witnesses including PW-1, PW-2 and PW-3 - Dr. Madan Mohan, who conducted post mortem examination of the deceased. The Trial Court after due appreciation of evidence has reached the conclusion that the evidence of eye-witnesses, PW-1 and PW-2, corroborates with each other on all material facts and further that the injuries sustained by the deceased have been corroborated by the Post Mortem Report and the evidence of PW-3 and therefore convicted and sentenced the appellant for the aforesaid offences. Aggrieved by the aforesaid judgment and order of the Trial Court, the appellant had filed Criminal Jail Appeal No. 243 of 2006 before the High Court.

6. The High Court after re-appreciation of entire evidence on record and analysis of submissions made by the parties has dismissed the appeal and confirmed the conviction and sentence of the appellant. It is the correctness or otherwise of the judgment and

order passed by the High Court which is in appeal before us in this appeal.

7. We have heard Ms. Minakshi Vij, learned *amicus curiae* appearing for the appellant and Shri Jatinder Kumar Bhatia, learned counsel appearing for the respondent-State.

8. We have carefully perused the evidence of the two witnesses, namely, PW-1, who is none other than the brother of the deceased and PW-2, the servant of the deceased person. We have also seen the post-mortem report prepared by PW-3. We have also carefully perused the judgment(s) and order(s) passed by the Courts below.

10. In our considered opinion, the impugned judgment and order passed by the High Court confirming the conviction and sentence awarded by the Trial Court does not suffer from any legal infirmity which would call for our consideration and interference and therefore, the appeal requires to be dismissed and stands dismissed accordingly.

11. Fee of learned *amicus* is assessed at Rs.7,000/-.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(JAGDISH SINGH KHEHAR)

NEW DELHI,
MARCH 19, 2013.