

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No.199 of 2003

Raja Ram and three othersRevisionists

Versus

1. State

2. Addl. Sessions Judge, U. S. Nagar

3. Anandi Devi @ RamaRespondents

Hon'ble J. C. S. Rawat, J.

This criminal revision has been directed against the judgment and order dated 21.11.2003 passed by the learned Additional Sessions Judge, Rudrapur in S.T. No.253/2003 under sections 452, 364, 323, 506 IPC.

The learned counsel for the revisionists has contended that the revisionists were in jail on 19.6.2003 and the recovery has been shown on 22.6.2003. Meaning thereby, the recovery could not have been taken place on the said date. The learned counsel for the respondent refuted the contention and submitted that this plea has not been taken by the revisionists in the lower court. I have gone through the order of the learned Addl. Sessions Judge and there is no evidence in support of the contention raised by the learned counsel for the revisionists. Apart this, this plea has not been raised before the learned lower court. This is a question of fact and the revisionist can raise this plea before the court below during the trial. Therefore, any new plea cannot be taken place during the present revision.

Keeping in view of this, there is no illegality in the order of the learned Sessions Judge. The revision lacks merit and is liable to be dismissed. Therefore, the revision is dismissed.

Dated 30.10.2004

(J.C.S. Rawat, J.)

Rawat