

**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**Government Appeal No. 2021- A of 2001**  
**(Old No. 9/1999)**

State of U.P.

.....Appellant

**Versus**

Bhim Singh  
S/o Khushal Singh  
R/o Village Than  
Patti Bidolsun  
District Pauri Garhwal

.....Respondent.

Shri H.C. Pandey, learned A.G.A. for the State.

**Coram: Hon'ble Prafulla C. Pant, J.**  
**Hon'ble Dharam Veer, J.**

**Oral: Hon'ble Prafulla C. Pant, J.**

This appeal is preferred against the order dated 10.09.1998, passed by learned Sessions Judge, Pauri in Sessions Trial No. 47 of 1994, whereby accused/respondent, has been acquitted of charge punishable under section 302 I.P.C. and 4/25 Arms Act, 1950.

2. The appeal is filed with delay of 40 days before Allahabad High Court in the year 1999. Heard. The delay is condoned.

3. Also, heard on leave to appeal.

4. The lower court record shows that as many as five witnesses were examined on behalf of the prosecution namely P.W. 1 Jayant Kumar, P.W. 2 Bhupal Singh, P.W. 3 Shyam Singh, P.W. 4 Bharat Singh and P.W. 5 Balwant Singh. Out of the five witnesses examined,

four witnesses namely, P.W. 2 Bhupal Singh, P.W. 3 Shyam Singh, P.W. 4 Bharat Singh and P.W. 5 Balwant Singh did not support the prosecution story and were declared hostile. The only witness, P.W. 1 Jayant Kumar, who has supported the prosecution story has simply stated that he has witnessed accused Bhim Singh running and injured Pooran Singh chasing him. This witness nowhere stated that he saw Bhim Singh causing injuries on the person of Pooran Singh (deceased) with a knife. In the circumstances, we are of the view that the acquittal of the accused/respondent recorded by the trial court need no interference.

5. Therefore, the leave to appeal is refused. The appeal is dismissed in limine. (All Pending applications in this case also stand disposed of).

**(Dharam Veer, J.)      (Prafulla C. Pant, J.)**

**Dt: 28.02.2007**

**Sweta**