

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Appeal (Leave to Govt. Appeal) No.58 of 2009
(Delay Condonation Application No.806/2009)

IN

Government Appeal No. 45 of 2009

State of Uttarakhand Appellant/Applicant

Versus

Sonu S/o Surajmal,
R/o Village-Thithaki Kawyadpur,
Police Station Manglore,
District-Haridwar.

.....Respondent

.....

Sri H.C. Pujari, A.G.A. present for the appellant/applicant.

Date: July 30, 2009

Hon'ble Prafulla C. Pant, J.

Hon'ble B.S.Verma, J.

[Per : Hon'ble Prafulla C. Pant, J.]

This is Delay Condonation Application No. 8056/2009 for condonation of delay in filing the appeal.

2. Heard. The delay is sufficiently explained in the affidavit accompanying the application. The application is allowed. Delay is condoned. (Application No.8056/2009 stands disposed of.)

3. Also heard on leave to appeal prayed under Section 378 (3) of the Criminal Procedure Code against the judgment and order dated 03.01.2009 passed by the trial court (2nd Additional Sessions Judge, Haridwar), in Sessions Trial No.255 of 2007.

4. Perusal of the impugned order shows that though the accused/respondent - Sonu has been acquitted of the charge of offence punishable under Sections 307, 323, 324, 326, 504 & 506 I.P.C., but he has been convicted under Section 326 I.P.C. After hearing on sentence, the trial court has sentenced the accused/respondent to rigorous imprisonment for a period of seven years, and also directed to pay fine of Rs. 10,000/- (Rupees ten thousand), in default of payment of which the convict has to undergo further imprisonment for six months.

5. Having considered the submissions of learned A.G.A. and after going through the impugned judgment and order passed by the trial court, we do not find any sufficient reason to grant leave to appeal in this case, as the trial court while acquitted the accused/respondent of the charge punishable under Section 307 I.P.C., has given reasons to record conviction against him under Section 326 I.P.C. and sentenced him to rigorous imprisonment for seven years, and also directed him to pay fine of Rs. 10,000/-.

6. Leave to appeal is refused. The appeal stands dismissed summarily.

(B.S. Verma, J.)

(P.C. Pant, J.)

30.07.2009