

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 209 of 2003

1. Umed Singh, S/o Late Meharwan Singh
2. Surendra Singh, S/o Late Anand Singh
Both R/o Village Bisht Boonga
Patti Kapolsyun District Pauri Garhwal
Uttaranchal (Uttarakhand)

.....Revisionists

Versus

1. State of Uttaranchal (Uttarakhand)
2. Sita Devi, W/o Shri Uttam Singh
R/o Village Bisht Boonga
Patti Kapolsyun District Pauri Garhwal
Uttaranchal (Uttarakhand)

.....Respondents

Shri G.S. Negi, Advocate, present for the revisionist
Shri M.A. Khan, Brief Holder, present for the state.
Ms. Seema Sirohi, Advocate, present for the respondent no.2.

Hon'ble Prafulla C. Pant, J.

This revision is directed against the order dated 08.10.2003, passed by Sessions Judge, Pauri Garhwal, in criminal appeal no. 7 of 2001, whereby said court has affirmed the conviction of the revisionists Umed Singh and Surendra Singh under section 504 IPC, and directed them to be

released on probation under section 4 Probation of Offenders Act, 1958.

2. Heard learned counsel for the parties and perused the lower court record.

3. Brief facts of the case are that respondent no.2 Sita Devi filed a criminal complaint no. 2997 of 2000, in the court of Chief Judicial Magistrate, Pauri Garhwal, against the present revisionists Umed Singh and Surendra Singh with the allegations that in the month of June 2000, the complainant (Seeta Devi) Village Pradhan of village Bisht Boonga was getting constructed pathway in the village. Accused/revisionists protested and created obstruction. The complainant made a report to the Sub Divisional Magistrate, on which proceedings were drawn against Surendra Singh under section 4/5 U.P. Public Premises (Eviction from Unauthorized Occupants) Act, 1972. Since then, both accused Surendra Singh and Umed Singh started harbouring enmity with the complainant. On 28.08.2000, when P.W.3 Danish Khan (Junior Engineer) alongwith Principal of ETC College

came for inquiry in the village the accused Surendra Singh and Umed Singh hurled abuses at Sita Devi with intention to insult her. It is also alleged that they assaulted her and threatened her of dire consequences. After evidence recorded under section 200 Cr.P.C., and 202 Cr.P.C., the trial court summoned the accused to face the trial. On behalf of the complainant P.W.1 Sita Devi, P.W.2 Gabbar Singh, P.W.3 Danish Khan and P.W.4 Deendayal were got examined under section 244 Cr.P.C., whereafter Chief Judicial Magistrate, Pauri Garhwal on 11.07.2001, framed charge of offences punishable under section 354, 504, 506 IPC, against the two accused namely Surendra Singh and Umed Singh who pleaded not guilty and claimed to be tried. Thereafter, the aforesaid four witnesses were further cross-examined under section 246 Cr.P.C. The evidence was put to the accused under section 313 Cr.P.C., in reply to which they alleged that due to enmity they have been falsely implicated. However, no evidence in defence was adduced. The trial court after hearing the parties found that charge of offences punishable under section 354, 504, 506 IPC, is proved against the two accused Surendra Singh and Umed Singh. After

hearing on sentence, each one of them was sentenced to rigorous imprisonment for a period of six months and directed to pay fine of ₹500/- (Rupees five hundred) under section 354 IPC, and imprisonment for a period of three months under section 504 IPC, and further imprisonment for a period of three months under section 506 IPC. Aggrieved by said judgment and order dated 08.11.2001, passed by Chief Judicial Magistrate, Pauri Garhwal, in criminal complaint case no. 2997 of 2000, the convicts preferred criminal appeal no. 07 of 2001, learned Sessions Judge, Pauri Garhwal, after hearing the parties, vide impugned judgment and order dated 08.10.2003, allowed the appeal partly. Learned Sessions Judge set aside the conviction and sentence recorded against the accused under section 354, 506 IPC but affirmed the conviction under section 504 IPC. However, instead of sentencing convicts on that count, they were directed them to be released on probation under section 4 of Probation of Offenders Act, 1958. Hence, this revision.

4. I have gone through the record of the case. P.W.1 Sita Devi is Village Pradhan, who has stated

that she was getting constructed pathway in the village when accused Surendera Singh objected to the same. She further told that she made a complaint to the Sub Divisional Magistrate on which proceedings under U.P. Public Premises (Conviction of Unauthorized Occupants) Act, 1972, were initiated against Surendra Singh and in the inquiry Danish Khan (P.W.3) Junior Engineer alongwith Principal of ETC College came to the village Bisht Boonga. On 28.08.2000, accused Surendra Singh and Umed Singh quarreled with Sita Devi (P.W.1). They hurled abuses at her. The statement of P.W.1 Sita Devi that she was insulted to provoke breach of peace gets corroborated from the statement of P.W.2 Gabbar Singh , P.W. 3 Danish Khan, P.W. 4 Deendayal Singh. The testimony of all the prosecution eye witnesses is natural and trustworthy on the point of insulting Sita Devi (complainant) Village Pradhan of Bisht Boonga. Both the courts below have given concurrent finding fact on this point. This Court does not find any illegality in the impugned order passed by learned Sessions Judge, Pauri Garhwal.

5. Learned counsel for the revisionists

argued that under section 504 IPC it is only the intentional insult with intent to provoke breach of peace in which the person can be convicted under the section. I have gone through the provision of section 504 IPC, and after examining the evidence on record I found that complainant has fully proved the ingredients of the offence under which the Sessions Judge has affirmed the conviction. It is also submitted that the accused/revisionist Umed Singh is about 80 years old. As far as age of one of the revisionist (Umed Singh) is concerned, the appellate court (Sessions Judge, Pauri Garhwal) has already taken care of said fact by releasing the convict on probation under section 4 of Probation of Offenders Act, 1958.

6. In the above circumstances, this Court does not find any error of law committed by the trial court. Accordingly, there is no force in this revision which is liable to be dismissed. The revision is dismissed. Trial court record be sent back.

(Prafulla C. Pant, J.)

28.02.2011