

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.2723/2023
(@ Special Leave Petition (Crl.) No.1232/2023

SATNAM SINGH

Appellant(s)

VERSUS

THE STATE OF UTTARANCHAL

Respondent(s)

O R D E R

1. Heard learned counsel for the parties.
2. Leave granted.
3. The appellant was convicted concurrently by the Trial Court and the High Court for committing offences under Sections 307 of the Indian Penal Code (IPC). He was sentenced to undergo 10 years rigorous imprisonment (RI).
4. The appellant argues that the prosecution story is fatal inasmuch as it is riddled with several glaring infirmities and omissions; (i) that suspiciously, First Information Report (FIR) - a typed written document was lodged with lightening speed immediately after the incident at 1.00 a.m. - in the early hours of the morning on 04-09-2004, (ii) the prosecution's version that the victim (PW 1) suffered a bullet injury is suspect for the reasons that the Investigating Officer (PW 5) admitted in his deposition that he saw the bullet and yet did not seize it or send it to the Forensic Science Laboratory. Learned counsel cited the decision in "*Sukhwant Singh vs. State of Punjab*" (1995) 5 SCC 367 in support of the proposition that such omission to recover and send bullet or

the concerned fire-arm to link it with the offence alleged, is fatal to any prosecution, (iii) It was argued that the prosecution neither produced any document in support of its allegation that the victim was hospitalized for three days nor was any other objective material, shown to the Court.

5. The prosecution, on the other hand, urges this Court not to interfere with the current findings of fact. Learned counsel for the State points to the medical report, indicating that two injuries corresponded to the deposition of PW-1 which withstood scrutiny and cross-examination, i.e., the entry wound (which indicated charring, tattooing and blackening of the fore-arm and the mirror image of that through the exit wound.

6. It was further urged by the State that the accused – appellant's explanation or defence hinged around the alleged defects of the prosecution which are not fatal but have to be seen from an overall perspective.

7. Learned counsel conceded that both the Trial Court and the High Court noted that the bullet was not recovered and sent to FSL, yet in the backdrop of the unshaken testimony of the victim (PW 1), the conviction recorded and sentence imposed was justified.

8. So far as the recovery of the bullet and the absence of the medical records are concerned, *ipso facto*, both would have been weighty circumstances. Yet the testimony of PW-3 (examining Doctor) establishes the nature of the injury. Significantly, that witness also deposed that the victim was hospitalized, as alleged by the

prosecution and was not challenged in cross-examination. In these circumstances, the lone circumstance which would have been doubtful is the absence of recovery of the bullet. Although the appellant has relied upon *Sukhwant Singh* (supra), it is now established that not all lapses are fatal (refer for instance "*State of Karnataka vs. K Yarappa Reddy*" (1999) 8 SCC 715) and other judgments of this Court, which have underlined that the prosecution's inadequacies have to be seen in the overall circumstances on a case by case basis. Here, on an overall appreciation of the circumstances, the attack, in the opinion of this Court had been established. In ordinary circumstances, the question then would have been what was the real intention of the accused – given the effect on the victim, i.e, left fore arm injury, which could have resulted in a conviction either Sections 324, 326 or 307 IPC. It is the degree of the injury and the nature of surrounding circumstances which are decisive in any given case. The circumstances in this case proved by the prosecution are that rather unusually the accused was literally stalking the victim at 1.00 in the morning and when the opportunity arose, he shot at him. This, *ipso facto*, establishes that the intention was to cause serious if not fatal injury. Consequently, the conviction under Section 307 IPC cannot be faulted.

9. As far as the sentence imposed is concerned, this Court is of the considered opinion that 10 years rigorous imprisonment is rather too severe and harsh. It is in any number of decided cases,

this Court has held that even for a grave offence punishable under Section 304 Part II IPC, ordinarily a standard sentence of upto 5 years to 7 years has been imposed. In these circumstances, the given sentence of 10 years RI is hereby modified to one of 3 years RI. This Court also is cognizant that no antecedents showing violence of the appellant, or his proneness to such behaviour have been shown.

10. The appeal succeeds to the above extent and is accordingly allowed. The sentence imposed upon the appellant is modified from 10 years RI to 3 years RI.

11. There shall be no order on costs.

.....J
(S.RAVINDRA BHAT)

.....J
(ARAVIND KUMAR)

NEW DELHI
5TH SEPTEMBER, 2023.

ITEM NO.16

COURT NO.5

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Special Leave Petition (Crl.) No.1232/2023

SATNAM SINGH

Appellant(s)

VERSUS

THE STATE OF UTTARANCHAL

Respondent(s)

(IA No. 9600/2023 - EXEMPTION FROM FILING O.T.)

Date : 05-09-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s)

Mr. Santosh Paul, Sr. Adv.
Mr. Sriharsh N. Bundela, Adv.
Mr. Arvind Kumar Singh, Adv.
Kumari Rashmi Singh, Adv.
Ms. Rashi Jaiswal, Adv.
Mr. Krupal Krishanrao Paluskar, Adv.
Mr. Jai Shubhash Thakur, Adv.
Mr. N. Ravi, Adv.
Mr. Sandeep Chhabra, Adv.
Mr. Vedant Mishra, Adv.
Mr. Virendra Mohan, Adv.
Mr. Randhir Kumar Ojha, AOR
Mr. Akshay Kumar, Adv.

For Respondent(s)

Mrs. Ruchira Gupta, A.A.G.
Mr. Ravindra S. Garia, AOR
Mr. Shashank Singh, Adv.
Mr. Vikas Negi, Adv.
Mr. Madan Chandra Karnatk, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Application seeking exemption from filing official translation of the Annexures is allowed.
2. Leave granted.

3. The appeal is allowed, in terms of the signed order.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(BEENA JOLLY)
COURT MASTER (NSH)

(Signed Order is placed on the file)