

A RAMESH CHILWAL @ BOMBAYYA
v.
STATE OF UTTARAKHAND
(Criminal Appeal Nos.1072-1073 of 2012)

B JULY 20, 2012

[P. SATHASIVAM AND RANJAN GOGOI, JJ.]

*Sentence/Sentencing: Conviction of accused-appellants under i) s.302 IPC alongwith life imprisonment; ii) s.2/3 of the
C Gangsters Act alongwith 10 years rigorous imprisonment and
iii) s.27 of the Arms Act alongwith 7 years rigorous imprisonment - Conviction affirmed by both High Court and Supreme Court - Clarification given by Supreme Court as regards the sentencing part - Held: Considering the fact that
D the trial court had awarded life sentence for offence u/s.302, IPC; in view of s.31, Cr.P.C., all the sentences imposed under the IPC, Gangsters Act and Arms Act would run concurrently - Code of Criminal Procedure, 1973 - s.31.*

E CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1072-1073 of 2012.

From the Judgment & Order dated 11.11.2011 of the High Court of Uttarakhand at Nainital in Criminal Appeal Nos. 15 & 16 of 2006.

F Gaurav Agrawal for the Appellant.

Abhishek Atrey, Shivika Jain for the Respondent.

The order of the Court was delivered

G **O R D E R**

1. Leave granted.

2. Heard learned counsel for the appellant as well as for the respondent-State. A

3. On 9th April, 2012, this Court issued notice confining to the question of sentence only that too for clarifying that all the sentences to run concurrently. B

4. Learned counsel appearing for the appellant has brought to our notice that the trial Judge has convicted and sentenced the appellant in the following order:

i) The accused Ramesh Chilwal @ Bambayya is convicted in Case Crime No.580/2004, Special Session Triable Case No.28/2005 under Section 302 I.P.C. and sentence for the rigorous imprisonment of life and a fine of Rs.1,00,000.00 (Rupees one lakh). In default for the payment of fine, he shall also serve a simple imprisonment for a period of six months. Out of this Rupees One Lac, Rs.50,000.00 (Rupees fifty thousand) is awarded as compensation to the family of the deceased. C D

ii) The accused Ramesh Chilwal @ Bambayya is convicted in Case Crime No. 580/2004, Special Session Triable Case No.28/2005 under Section 2/ 3 [3(1)] Gangsters Act and sentence for the rigorous imprisonment of 10 (ten) years and a fine of Rs.50,000.00 (Rupees fifty thousand). In default for the payment of fine, he shall also serve a simple imprisonment for a period of four months. Out of this Rs.50,000.00 (Rupees fifty thousand), rupees twenty five thousand is awarded as compensation to the family of the deceased. E F G

iii) Accused Ramesh Chilwal @ Bambayya is convicted in Case Crime No. 737/2004, Sessions Triable Case No. 118/2005 under Section 27 of the Arms Act and sentence for the rigorous H

A imprisonment of 7 (seven) years and a fine of
Rs.25,000.00 (Rupees twenty five thousand). In
default for the payment of fine, he shall also serve
a simple imprisonment for a period of four months.
B Out of this Rs.25,000.00, half of the amount is
awarded as compensation to the family of the
deceased."

5. By the impugned order, the said conviction and sentences were confirmed by the High Court.

C 6. Since this Court issued notice only to clarify the sentence
awarded by the trial Judge, there is no need to go into all the
factual details. We are not inclined to modify the sentence.
However, considering the fact that the trial Judge has awarded
life sentence for an offence under Section 302, in view of
D Section 31 of the Code of Criminal Procedure, 1973, we make
it clear that all the sentences imposed under the IPC, the
Gangsters Act and the Arms Act are to run concurrently.

E 7. While confirming the conviction, we clarify that all the
sentences are to run concurrently. To this extent, the judgment
of the trial Court as affirmed by the High Court is modified.

8. The appeals are disposed of accordingly.

B.B.B.

Appeals disposed of.