

State of U.P. Vs. Keshar Singh

State of U.P. Vs. Keshar Singh

SooperKanoon Citation : sooperkanoon.com/514248

Court : Uttaranchal

Decided On : Aug-02-2005

Reported in : 2006CriLJ503

Judge : J.C.S. Rawat, J.

Acts : Wild Life (Protection) Act, 1972 - Sections 5, 51 and 55; Code of Criminal Procedure (CrPC) - Sections 313

Appeal No. : Government Appeal No. 1176 of 2001

Appellant : State of U.P.

Respondent : Keshar Singh

Advocate for Def. : Sri. D.K. Sharma

Advocate for Pet/Ap. : Standing Counsel

Judgement :

J.C.S. Rawat, J.

1. This is a criminal appeal preferred by the State against the judgment and order dated 13-12-1983 passed by the Sessions Judge, Uttarkashi in criminal appeal No. 19 of 1982 Kesar Singh v. State by which he allowed the appeal and set aside the conviction and sentence awarded by the Munsif Magistrate, Purola district

Uttarkashi in criminal case No. 374 of 1980 by which the learned Magistrate convicted and sentenced the accused respondent under Section 51 of Wild Life (Protection) Act, 1972 to undergo imprisonment for two years and a fine of Rs. 2000/- and default of payment of fine to further undergo 3 months S.I.

2: The brief facts are that a complaint was filed before the trial Court alleging therein that on 24-11-1980 at 7 a.m. from motor road in village Natwar four pods of musk weighing 10 Tolas 5 Anas worth Rs. 12,000/- was recovered from the possession of the respondent. The prosecution led evidence and the respondent in his statement Under Section 313 Cr. P.C. denied the allegations made in the complaint and stated that he was taken into illegal custody and thereafter he was handed over to the police. He has made a complaint to the higher authorities and he has been implicated due to enmity. After appreciation of the evidence the learned trial Court convicted the respondent and sentenced him as mentioned above. Feeling aggrieved by the said order an appeal was preferred before the learned sessions Judge who allowed the appeal and acquitted the respondent. The learned sessions Judge acquitted the respondent-accused only on the ground that the Assistant Wild Life Warden was not competent to file the complaint. As such the complaint was not made in accordance with law and the trial Court was not competent to take the cognizance and acquitted the respondent-accused on this ground alone.

3. I have heard Sri D.K. Sharma learned G.A. and learned Counsel for the respondent and perused the record.

4. It was contended on behalf of the State that Section 5 of the Wild Life (Protection) Act, 1972 empowers all the Assistant Wild Life Wardens to file complaints against offences under the said Act in the competent Courts. It was further contended that notification No. 4003/XIV-3-67-74 dated April 30, 1976 empowers all the Assistant Wild Life Wardens to prosecute the offenders. The learned Counsel for the respondent conceded this fact. Section 55 of the Wild Life (Protection) Act, 1972 is under :--

Cognizance of offences :-- No Court shall take cognizance of any offence against the Act on the complaint of any person other than

(a) Director of Wild Life Preservation or any other officer authorized in this behalf by the Central Government; or

(b) The Chief Wild Life Warden, or any other officer authorized in this behalf by the State Government; or

(c) Any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the State Government or the officer authorized as aforesaid.

5. The perusal of the aforesaid section reveals that the Chief Wild Life Warden or any other officer authorized in this behalf by the State Government may file complaints before the competent Court. The notification No. 4003/XIV-3-67-74 dated April 30, 1976 is as under :-

In exercise of the powers under Section 55 of the Wild Life (Protection) Act, 1972, (Act No. 53 of 1972), the Governor is pleased to authorize all the Assistant Conservators of Forests, all the Assistant Wild Life Wardens, all the Range Officers all the Deputy Superintendents of Police, all the Sub-Inspectors of Police posted to any of the police stations and/or Police out posts, and Deputy Chief Wild Life Warden to file, in their respective jurisdictions complaints against offences under the said Act.

6. The perusal of the above notification reveals that the Assistant Wild Life Warden is competent to file the complaint before the competent Court. The notification was issued in the year 1976 whereas the appeal was decided on 13-12-1982. As such when the appeal was decided and the prosecution was launched the Assistant Wild Life Warden was empowered to file the complaint. As such the appellate Court erred in holding that the Assistant Wild Life Warden was not competent to file the complaint. The learned appellate Court has not dealt with other points raised before it.

7. In view of the above discussion the appeal deserves to be remanded back to the learned Sessions Judge and he is directed to decide the appeal afresh in

accordance with law after hearing both the parties. The parties are directed to appear before the learned Sessions Judge on 15-9-2005. The record of the Court below be returned back along with a copy of this judgment immediately.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com