IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 642 OF 2005

GURDEEP SINGH ..... APPELLANT

VERSUS

STATE OF UTTARANCHAL ..... RESPONDENT

SUPREME COURT OF INDIA

O R D E R

1. This appeal by way of special leave arises out of the following facts:

1.1 Banta Singh, deceased the grand father of the appellant herein, was the owner of about 14 acres of land which was being cultivated by his three sons including Pyara Singh, accused. He also had two tube wells one of which had been entered in the revenue record as belonging to Pyara Singh and Banta Singh felt that this change had been made as a result of a fraud played by Pyara Singh. This had annoyed him and he executed a Will of his entire property in the names of his two other sons Kartar Singh and Mukhtyar Singh. This annoyed Pyara Singh yet further.

1.2 On the 26th of September, 1982, Mukhtyar Singh, aforesaid had gone to Jaspur for his personal work

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whereas the complainant went into the jungle to relieve himself leaving the deceased in the house. At about 7:00a.m. the deceased went to the tube well of Pyara Singh and asked him to provide water from his tube well in order to irrigate the paddy crop. Pyara Singh refused to do so on which the deceased threatened that the sale deed of his land would be immediately executed in favour of Kartar Singh and Mukhtyar Singh, the other two sons. This infuriated Pyara Singh further on which he and the appellant herein assaulted the deceased with a ballam and pharsi. The deceased fell on the ground, whereafter Chhinnder Kaur wife of Pyara Singh, caused him several injuries which resulted in his immediate death. The incident was witnessed by Gurdev Kaur, wife of the deceased, Charan Kaur her daughter-in-law and Rani the niece of the complainant and several other persons as well. On hearing the alarm Mukhtyar Singh also arrived at the spot. The assailants, however, ran away towards the jungle. Mukhtyar Singh then made his way to the police station and lodged a First Information Report for an offence under Section 302/34 of the Indian Penal Code.

1.3 The trial court on a consideration of the evidence convicted Gurdeep Singh, Pyara Singh and Chhinder Kaur for the aforesaid offence on the

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statements made by Gurdev Kaur and the others. An appeal was thereafter taken to the High Court and during its pendency, Chhinder Kaur passed away. The appeal of Gurdeep Singh and Pyara Singh was dismissed by the High Court. It is the conceded position that the Special Leave Petition filed by Pyara Singh has been dismissed by this Court whereas notice had been issued in the case of the appellant, in the light of the fact that he claimed to be 11 to 13 years of age as on the date of the incident and being a juvenile could not have been tried before a Criminal Court.

2. Before us today, Mr. Nagendra Rai, learned Senior Counsel has attempted to argue the matter on the merits of the case as well. We find absolutely no reason to interfere in the orders of the trial court and the High Court insofar as the involvement of the appellant is concerned. In the light of the fact, however, that there seems to be uncertainity as to his age on the date of the incident, we feel that the matter requires a further inquiry on this limited aspect. We, accordingly, while dismissing the appeal on merits, remit the case to the trial court which shall make an inquiry under Section 20 of the Juvenile Justice (Care & Protection of Children) Act, 2000, read

with Rule 12 of the Juvenile Justice (Care & Protection of Children) Rules, 2007, and in case it is found that the appellant was not a juvenile on the date of the incident of the offence, no further orders will be necessary. However, in case it is found that he was a juvenile, proceedings under the Act shall be taken and the sentence awarded to him will be set aside and his case will be forwarded to the Board set up under the Act. We also direct that as the appellant is on bail he shall continue to remain on bail during the inquiry.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
JANUARY 25, 2011.

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