

ITEM NO.19

COURT NO.12

SECTION II

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

Petition(s) for Special Leave to Appeal (CrI.) No(s). 1197/2020

(Arising out of impugned final judgment and order dated 12-09-2019 in CRLA No. 2833/2000 passed by the High Court Of Judicature At Allahabad)

DHRUV RAJ RAI

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

(IA No. 127832/2020 - EXEMPTION FROM FILING O.T. & IA No. 192040/2019 - EXEMPTION FROM FILING O.T.)

Date : 16-11-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. Dushyant Parashar, AOR
Mr. Dinesh Pandey, Adv.
Mr. Manu Parashar, Adv.

For Respondent(s) Mr. S. R.Singh, Sr.Adv.
Mr. Sushant Kumar Yadav, Adv.
Mr. Ajay Yadav, Adv.
Mr. Prateek Yadav, Adv.
Mr. Gaurav Lomes, Adv.
Mr. Prithvi Yadav, Adv.
Mr. Prashant, adv.
Mr. Ankur Yadav, AOR

Ms. Srishti Singh, AOR
Mr. Arun Kumar Singh Adv

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

Heard learned counsel for the petitioner and the respondent.
This petition is against a judgment and order of conviction of sentence passed against him on 02.11.2000 by the Additional

District and Sessions Judge, Court No.7, Azamgarh in Sessions Trial No.203 of 1988. The petitioner has been sentenced to undergo 7 years rigorous imprisonment for the offences under Section 304, five years rigorous imprisonment for offences under Sections 326/149 and for offence under Section 148, the sentence awarded is 2 years rigorous imprisonment. All the sentences have been directed to run concurrently and fine was also imposed with default stipulation. The conviction was upheld by the High Court so far as the present petitioner is concerned. The main case against the petitioner is that he attacked and caused injury to one -Bajrangi with a spear. The Trial Court had reached its finding against him primarily on the basis of depositions of PW1 and PW2.

Mr. Dushyant Parashar, learned counsel for the petitioner has argued before us mainly on the ground that neither the Trial Court nor the High Court had considered the statement of the petitioner made under Section 313 of the Code of Criminal Procedure, 1973. We have been taken through the said statement at the time of hearing by Mr. Parashar. The nature of the statement is primarily that of denial except that the petitioner has taken the plea of alibi, not being at the place of occurrence at the material point of time. He, however, has not produced any independent witness to support his alibi plea. We were also taken through the cross-examination of the witnesses of fact and we do not find in course of cross-examination this plea of alibi was put to them.

In such circumstances, we do not think on the basis of statement under Section 313, Cr.P.C, the concurrent finding of the Sessions Judge and the High Court can be upset. Otherwise we do not

find any reason to interfere with the judgment assailed in this petition for special leave to appeal.

The present petition is, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR