

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1499/2008

LATIF KHAN

APPELLANT (S)

VERSUS

THE STATE OF RAJASTHAN

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. 1501/2008 & CRIMINAL APPEAL NO. 1500/2008

O R D E R

Though the Trial Court convicted the accused for the offence under Section 302 of the Indian Penal Code, 1860 ('IPC'), the High Court on evaluation of the entire material placed on record rightly came to the conclusion that the offence committed by the accused - Nahar Singh falls under Section 304 Part II of the IPC.

Dr. Manish Singhvi, learned Additional Advocate General appearing on behalf of the State while taking us through the entire material on record and the judgment of the High Court as well as of the Trial Court tries to convince the Court that the accused - Nahar Singh is liable to be convicted under Section 302 of the IPC as much as his act does not fall under Section 304 Part II.

Mrs. K. Sarada Devi, learned counsel appearing on behalf of the accused - Nahar Singh supports the judgment of the High Court.

The evidence reveals that the incident occurred without any premeditation and upon a sudden quarrel. Premeditation behind the incident is not forthcoming from the evidence on record. It seems that all the accused as well as the deceased were youngsters who

were playing cricket. The accused - Nahar Singh assaulted the deceased on his head with the bat and vague evidence regarding assault by other accused with stumps is also forthcoming. The doctor opined that the death is caused due to the head injuries. The accused - Nahar Singh was 19 years of age on the date of incident. Since the incident has taken place without any premeditation upon a sudden quarrel, we are of the considered opinion that the High Court was justified in convicting the accused - Nahar Singh for the offence under Section 304 Part II of the IPC. So also the High Court is justified in acquitting the other accused inasmuch as no specific evidence is found against them. Only vague and cryptic evidence is forthcoming as against the other accused. Accordingly, no interference is called for in the impugned judgment passed by the High Court.

The appeals filed by the State as well as by the complainant fail and stand dismissed.

.....J.
[MOHAN M. SHANTANAGOUDAR]

.....J.
[HEMANT GUPTA]

NEW DELHI;
MARCH 28, 2019.

ITEM NO.103

COURT NO.13

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

Criminal Appeal No(s). 1499/2008

LATIF KHAN

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN

Respondent(s)

(RETAIN ITS POSITION)

WITH

Crl.A. No. 1501/2008 (II)

(READY)

Crl.A. No. 1500/2008 (II)

(READY)

Date : 28-03-2019 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE HEMANT GUPTA

For Appellant(s) Dr. Manish Singhvi, AAG
Mr. Milind Kumar, AOR

Mr. Hasan Anzar, AOR

For Respondent(s) Dr. Manish Singhvi, AAG
Mr. Milind Kumar, AOR

Mrs. K. Sarada Devi, AOR

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

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of
accordingly.

(ASHWANI THAKUR)
COURT MASTER (SH)

(RAJINDER KAUR)
BRANCH OFFICER

(Signed order is placed on the file)