

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CrI.M.P. 3109/2001 In SLP(CrI) 1626/2001

(From the Judgment and Order dated 19.1.2001 in CrI.Appeal No.406/89 of the High Court of Patna)

ARJUN JHA & ANR.

Petitioner (s)

VERSUS

STATE OF BIHAR

Respondent (s)

(With Appln(s). for bail and exemption from filing O.T.)

Date : 04/05/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Petitioner (s)

Mr. A.P. Mohanty, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

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Though we were not persuaded by the initial argument of learned counsel, he addressed alternative arguments as follows:-

If death had been caused to the victims as a result of the gun-shot injuries fired by the petitioners it would not amount to murder, but only culpable homicide not amounting to murder. If that be so, the offence would have been lowered to Section 308 IPC as the maximum, if not Section 324 of the Indian Penal Code. In

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the event of the conviction being altered to Section 308 of the IPC, no court could have awarded a sentence of imprisonment for five years, as has been done in this case.

But the second limb of Section 308 of the IPC indicates a maximum sentence awardable is seven years if hurt is caused to the victim. In the present case gun-shot injuries had been caused to the victims. Therefore there is no such illegality in awarding a sentence of imprisonment for five years. Hence we are

not inclined to interfere.
The SLP is dismissed.

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Hemalatha

(HK Bhatia)
Court Master