

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 77 OF 2013

MAHABIR

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

O R D E R

This appeal is directed against the judgment and order dated 26 May 2009 passed by the High Court of Punjab and Haryana whereby the High Court partly allowed the appeal filed by the present appellant and altered his conviction from that under Section 302 of the Indian Penal Code ("IPC") to one under Part I of Section 304 IPC. The appellant was directed to undergo imprisonment for life.

Shortly stated, the facts are that there was a property dispute between the parties and it is the case of the defense that they had orders of courts and revenue authorities in their favour whereby the possession of the land in dispute had been given to them. The case of the complainant party was that though orders may have been passed, but actual possession of the property was with them. Therefore, there was a dispute as to who was in possession of the property.

From the facts which have been narrated in the judgment, it is apparent that the High Court has also not come to a clear cut finding as to which party was the aggressor. The High Court

came to the conclusion that there was a free fight and in this melee, the appellant Mahabir struck a blow with a sharp edged weapon i.e. gandasī on the head of Gokal, who unfortunately died. It is observed by the High Court in its judgment that there was no intention to kill as no second blow was given.

We have heard learned counsel for the parties and we feel that the judgment of the High Court, on merits, does not call for any interference. However, as far as the issue of sentence is concerned, since the finding is that the intention was not to cause death, imposition of life imprisonment in this case is harsh.

At the time of the admission of this case, the appellant had undergone 8 years and 4 months of incarceration. Thereafter, the appellant was released on bail by this Court.

We feel that the amount of incarceration suffered by the appellant is sufficient to meet the ends of justice. Therefore, the judgment of the High Court is altered to the limited extent i.e. the substantive sentence is altered from life imprisonment to imprisonment already undergone.

The appellant is on bail. His bail bonds are discharged.

The appeal is accordingly, disposed of.

.....J.  
(DEEPAK GUPTA)

.....J.  
(SURYA KANT)

NEW DELHI  
June 18, 2019

ITEM NO.102

COURT NO.4

SECTION II-B

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). 77/2013

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THE STATE OF HARYANA

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Date : 18-06-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE SURYA KANT  
(VACATION BENCH)

For Appellant(s)

Mr. R.K. Rathore, Adv.  
Mr. Sudershan Singh Rawat, Adv.

For Respondent(s)

Dr. Monika Gosain, Adv.

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

The appeal is disposed of in terms of the signed order.

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

(MANISH SETHI)  
COURT MASTER (SH)

(SAROJ KUMARI GAUR)  
BRANCH OFFICER

(Signed order is placed on the file)