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Cr1.A.No. 563 OF 1997
ITEM No.111

Court No.5

SECTION IIA

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

CRIMINAL APPEAL NO.563 OF 1997

Joginder Singh Appellant (s)
VERSUS

State of Haryana Respondent (s)
(With office report)

Date : 25/11/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mr.Aseem Mehrotra,Adv.
Mr. Abhijat P. Medh,Adv.

For Respondent (s)Mr. D.P. Singh,Addl. Standing Counsel
Ms. Avneet Toor,Adv.
Mr. Vinay Kumar Garg,Adv.

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

The appeal is dismissed in terms of the signed order.

(Neena Verma) (Vijay Aggarwal) Court Master Court Master

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 563 OF 1997

Joginder Singh..... Appellant

Versus
State of Haryana..... Respondent

O R D E R

This is an appeal by accused Joginder Singh who faced trial along with three others for offences punishable under Sections 302, 449, 323 of the Indian Penal Code, 1860 (in short 'the IPC') and Sections 25 and 27 of the Arms Act, 1959 (in short 'the Arms Act'). The Trial Court found appellant Joginder Singh and one Inderjit Singh guilty of offences punishable under Section 302 read with Section 34 IPC. All the four accused persons were found guilty of offences punishable under Sections 449 and 323 read with Section 34 IPC. The appellant was found guilty of the offence punishable under Sections 25/27 of the Arms Act.

In appeal, the High Court directed acquittal of accused Inderjit and set aside the conviction of the accused persons of the offence punishable under Section 449 read with Section 34 IPC. However, the other two accused persons, namely, Manjit Singh and Hari Krishan were found guilty of the offence punishable under Section 323 read with Section 34 IPC. The sentence was reduced to six months' rigorous imprisonment. So far as the appellant is concerned, his conviction under Section 302 IPC was altered to Section 304 (Part-II) IPC and the custodial sentence of five years was awarded.

In support of the appeal, learned counsel for the appellant submitted that the High Court has not kept in view the background of the incident. It is submitted that the appellant acted in exercise of his right of private defence when the offence was committed. Alternatively, it was submitted that though the conviction was made under Section 304 (Part-II) IPC, the sentence

of five years as imposed is on the higher side and since the accused has already undergone the custody for about one and a half years, the period of sentence should be restricted to the period of custody already undergone. In response, learned counsel for the State of Haryana supported the judgment of the High Court.

We have perused the materials on record. We find that the High Court has analysed in great detail the evidence to conclude that the exercise of right of private defence, as claimed, was exceeded and in that view, altered the conviction to Section 304 Part-II IPC. We find nothing infirm in the conclusions of the High Court to warrant interference. The custodial sentence, as awarded, is also not on the higher side. We do not find any merit in the appeal, which is, accordingly, dismissed.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)
New Delhi,
November 25, 2003.