

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1434 OF 2013
(Arising out of S.L.P.(CRL) No. 2802 of 2012

MUTHESHA ... APPELLANT(S)

VERSUS

STATE OF KARNATAKA ... RESPONDENT(S)

O R D E R

Leave granted.

Appellant was put on trial for the offence under Section 302 of the Indian Penal Code ("IPC" for short). The Additional Sessions Judge, Mandya, vide judgment and order dated 19.02.2000 passed in Sessions Case No. 117 of 1998 held the appellant guilty for offence under Section 304 Part I of the IPC and sentenced him to undergo rigorous imprisonment for a period of four years.

Aggrieved by the same, the State of Karnataka filed an appeal and the High Court of Karnataka by the impugned order dated 20.09.2006 has altered the appellant's conviction from Section 304 Part I to that of Section 302 of the IPC and sentenced him to imprisonment for life. It is against this order that the appellant has preferred this appeal.

There is overwhelming evidence on record to show that the appellant and the deceased were in deep love. From the case of the prosecution itself it is evident that the occurrence had taken place without premeditation in a sudden fight in a heat of passion upon a sudden quarrel. Considering this, the trial court had held the appellant guilty under Section 304 Part I of the IPC. In the facts of the case, the view taken by the trial court is one of the possible views which, in our opinion, ought not to have been interfered with by the High Court in appeal.

On this ground alone, we are of the opinion that the High Court has erred in setting aside the order of the trial court and convicting the appellant for offence under Section 302 of the IPC.

In the result, we allow this appeal, set aside the judgment and order of the High Court and restore that of the trial court.

.....J.
(CHANDRAMAULI KR. PRASAD)

