

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 610-611 OF 2000@@
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Sheikh Jabbar & Ors. ..Appellants

vs.

State of Maharashtra ..Respondent

WITH

CRIMINAL APPEAL NO. 612 OF 2000@@
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Sheikh Ibrahim ..Appellant

vs.

State of Maharashtra ..Respondent

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Criminal Appeal No. 612/2000@@
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The appellant in this case has been convicted of an offence and sentenced to life imprisonment under Section 302 IPC. Briefly stated the facts are that the appellant was alleged to be a member of a mob which came to the place where the deceased Ajay alias Raju was standing and when some altercation took place Ajay was stabbed in the back by a blow given by a knife. According to the post-mortem report, Ajay died due to shock and haemorrhage because of the stab injury.

After considering the evidence on record and taking into consideration the statements of the witnesses, it is difficult to come to the conclusion that the accused had
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intention of killing Ajay. The manner in which the incident occurred and the single injury which was inflicted appears to bring this case under the provisions of Section 304 Part II IPC and not under Section 302 IPC. We are informed that the accused is in jail since his conviction. He has already spent about eight years in jail. Therefore, while altering the conviction from Section 302 IPC to Section 304 Part II IPC, we reduce the sentence to the period already undergone.

The appeal is disposed of in the aforesaid terms.

Criminal Appeal Nos. 610-611/2000@@
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After hearing the counsel for the parties, while maintaining the conviction we reduce the sentence to the period already undergone.

The appeals are disposed in the aforesaid terms.

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.....CJ.

.....J.
(K.G. BALAKRISHNAN)

.....J.
(ARIJIT PASAYAT)

New Delhi;
August 6, 2002.