

Cr1.A.No. 743 OF 1998
ITEM No.105

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.743 OF 1998

KEDAR NATH Appellant (s)

VERSUS

STATE OF CHHATTISGARH Respondent (s)

(with office report)

Date : 06/04/2004 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. Subhash Sharma, Adv. (AC)

For Respondent (s)Mr. Rajesh Srivastava, Adv. for
Mr. Prakash Srivastava, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is disposed of in terms of the signed order by converting the conviction from Section 302 IPC to Section 304 Part I IPC and imposing sentence of 10 years and the fee of Amicus Curiae is fixed Rs.500/- for the assistance rendered to the Court.

(D.L.Chugh) (Vijay Aggarwal)

AR-cum-PS Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINALL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.743 OF 1998

KEDAR NATHAppellant(s)

versus

STATE OF CHHATTISGARHRespondent(s)

O R D E R

Heard the learned counsel for the parties.

The appellant was convicted by the trial court under Section 302 of the Indian Penal Code, 1860 (for short "the IPC") and his conviction was maintained by the High Court. From the evidence on record we find that the prosecution case was that the appellant assaulted the deceased by fists and blows and also tried to jump on her body. Though in the post mortem report some incised wounds were noticed which were stated to be linked with tangi purported to have been recovered from the house of the accused, yet there is no evidence of any use of tangi by the appellant. Considering the nature of evidence led by the parties we feel the appropriate conviction will be under Section 304 Part I IPC and custodial sentence of 10 years would meet the ends of justice and we order accordingly. The accused, who is on bail pursuant to the orders of this Court dated 6.10.1998 shall surrender to custody for serving the remainder of sentence, if any, after taking note of the remissions, if any granted. The appeal is disposed of in the above terms.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)

New Delhi,
APRIL 06, 2004