

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

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).5713/2006

(From the judgement and order dated 08/03/2006 in AN No. 756/1988 of  
the HIGH COURT OF BOMBAY)

GAUTAM @ RAJU NARSINGH KOTHARI

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With application for interim stay and office report)

Date: 20/11/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. S.V. Savant, Sr.Adv.

Mr. M.Y. Deshmukh, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Mr. S.V. Savant, learned senior counsel appearing on behalf of the petitioner submits that the matter should be heard on the question of sentence. Reliance has been placed on a decision of this Court in Laxman Kalu Nikalje vs. The State of Maharashtra, [1968(3) SCR 685]. The case at hand is entirely different from the present case.

The petitioner had gone to Hotel Sujata to assault Ashok who had gone to that hotel to have tea. The petitioner wanted Ashok to be dragged out of the hotel. Ashok pleaded for mercy but still he did not pay any attention thereto. The Manager of the hotel closed the collapsible gate of the hotel. Ashok sent an information to Ullal (deceased) who came to the place of occurrence. Ashok came out of the hotel. They both assaulted with deadly weapons. The injuries

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inflicted on the deceased were two, one in the neck and another below the naval extending deep into the abdomen. Injuries had also been inflicted on Ashok. We are, therefore, of the opinion that it is not a case where the quarrel could be said to have started on sudden provocation. The deceased had been dealt

with cruelty. It is, thus, not a case which comes within the  
purview of the definition of the clause Fourthly to Section 302  
of the Indian Penal Code. The special leave petition is  
dismissed.

(A.S. BISHT)

COURT MASTER

(PUSHAP LATA BHARDWAJ)

COURT MASTER