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Cr1.A.No. 173 OF 1999
ITEM NO. 101 (PH)
COURT No. 6

SECTION II-A

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.173/1999

Satpal

Appellant(s)

Versus

State of Haryana

Respondent(s)

(With appln. for impleading party and with office report)

DATE : 17/08/2004 This/These matter/matters was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s) Mr. Mahabir Singh, Adv.
Mr. Rakesh Dahiya, Adv.
Ms. Madhusmita Bora, Adv.
Mr. Gagandeep Sharma, Adv.
Mr. Nikhil Jain, Adv.

For Respondent(s) Mr. D.P. Singh, Adv.
Mr. Vinay Kumar Garg, Adv.
Ms. Manu Sharma, Adv.

Mr. A.P. Jain, Adv.
for Mr. K.R. Nagaraja, Adv.

UPON hearing counsel the Court made the following

O R D E R

Application for impleadment is allowed.

Appeal is allowed in part, conviction and sentence awarded against the appellant under Section 302 of the IPC are set aside and he is convicted under section 304 A of the IPC and the sentence for the period already undergone against the appellant is awarded. The appellant who is on bail is discharged from the liability of bail bonds.

[Charanjeet Kaur]
Court Master

[Om Prakash]
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 173 OF 1999

Satpal

..
Appellant(s)

Versus

State of Haryana

..

Respondent(s)

O R D E R

Heard the parties.

Application for impleadment is allowed.

The sole appellant was convicted by trial Court under Section 302 of the Indian Penal Code (for short" the IPC") and sentenced to undergo imprisonment for life and to pay fine of Rs. 10,000/-, in default, to undergo further imprisonment for a period of six months. On appeal being preferred, the High Court confirmed the conviction. Hence this appeal by special leave.

We have been taken through first information report as well as evidence from which it appears that according to the prosecution case as well as evidence, no case under Section 302 of the IPC is made out, but at the highest, a case under Section 304 A of the IPC is disclosed. From the facts proved, it cannot be said that accused had either intended to cause death of the victim or had knowledge that he was likely to cause death by such act. The evidence to prove a case of culpable homicide or murder is completely lacking. Merely

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because the victim was dashed by the vehicle which was being driven by the appellant, from that alone, neither a case of murder nor that of culpable homicide can be inferred. We are of the view that the facts alleged and proved show that act of the accused was a rash one, as a result of which the victim was dashed causing his death thereby. In our opinion, the prosecution has succeeded in proving its case beyond reasonable doubts but the accused can be said to have committed an offence under Section 304 A of the IPC and the High Court was not justified in upholding conviction of the appellant under Section 302 of the IPC.

For the foregoing reasons, appeal is allowed in part,

conviction and sentence awarded against the appellant under Section 302 of the IPC are set aside and he is convicted under section 304 A of the IPC, under which maximum sentence which could be awarded is two years and since according to learned counsel, the appellant has remained in custody for a period of 20 months, we are of the view, the ends of justice would be met in case the sentence of imprisonment, already undergone is imposed against him. Thus, we award the sentence for the period already undergone against the appellant. The appellant who is on bail is discharged from the liability of bail bonds.

.....J[B.N. AGRAWAL]

.....J [H.K. SEMA]

NEW DELHI,
AUGUST 18,2004.