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SLP(Crl.)No. 4108 OF 2003
ITEM No.20

Court No. 3

SECTION IIA
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Crl.) No. 4108/2003

(From the judgement and order dated 16/07/2003 in CRLN 64/91
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

KANCHI

Petitioner (s)

VERSUS

STATE OF HARYANA

Respondent (s)

(With Appln(s). for bail & Office Report)

Date : 16/01/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s)Mr. Kapil Dev Singh, Adv. for
Mr. S.K. Verma,Adv.

For Respondent (s)Mr. DP Singh, Adv. for
Mr. VK Garg, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed to the extent indicated in the signed
order.

(D.L.Chugh) (Vijay Aggarwal)
Court Master Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.69 OF 2004
(Arising out of SLP(Crl) No.4108 of 2003)

KANCHI Appellant(s)

versus

STATE OF HARYANA

Respondent(s)

O R D E R

Leave granted.

The notice was confined only to the nature of offence/quantum of sentence.

Heard the learned counsel for the parties.

In this case originally three persons faced trial. The trial court held all the three accused guilty under Section 304 Part II of the Indian Penal Code, 1860 (for short "the IPC") and sentenced each of them to undergo rigorous imprisonment for eight years. In appeal before the High Court, two of them were acquitted. The conviction and sentence so far as the present appellant is concerned were confirmed.

Learned counsel for the appellant submitted that looking to the accusations and the offence allegedly committed, the same is not covered by Section 304 Part II IPC and at the most may be covered under Section 325 IPC. Per contra, learned counsel for the respondent-State submitted that both the trial court and the High Court have indicated reasons as to how and why the appellant is to be convicted under Section 304 Part II IPC.

The occurrence took place all of a sudden, and in the course of scuffle. Looking to the nature of injuries, the weapons used and the special features noticed by the courts below, this case is covered by Section 326 IPC and conviction is accordingly altered. Custodial sentence of four years would meet the ends of justice. The appeal is allowed to the extent indicated above.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)

New Delhi,
January 16, 2004y