

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2188 OF 2010

MUSHTAQ AHMED

Appellant(s)

Versus

STATE OF RAJASTHAN

Respondent(s)

O R D E R

We have heard learned counsel for the appellant.

2. None present on behalf of the respondent - State of Rajasthan.

3. This appeal has been filed by the appellant against the conviction and sentence awarded to him under Sections 302 and 324 of the Indian Penal Code (in short 'IPC').

4. The trial Court, by judgment dated 13.12.1982, convicted the accused appellant herein for the offence punishable under Section 302, IPC to undergo imprisonment for life and to pay fine of Rs.250/-, in default, to undergo rigorous imprisonment for two months. He was also sentenced for the offence under Section 324, IPC to undergo sentence for six months with fine of Rs.250/-, in default, to further undergo simple imprisonment for two months. Both the sentences were directed to run concurrently.

5. Aggrieved by the order passed by the trial Court, the appellant herein moved the High Court by way of an appeal.

6. The High Court, by the impugned judgment dated 11.5.2010, dismissed the appeal filed by the appellant and confirmed the order passed by the trial Court.

7. Learned counsel for the appellant has submitted at the beginning itself that he is not disputing the relevant facts, but he likes to point out that the appellant caused the injuries to the deceased only by chance and he had no intention to kill the deceased. He further contended that the cause of death of the deceased was because of Jaundice and not because of the injuries suffered by him.

8. Now, the scope of this appeal is limited to the question whether the death of the deceased was caused by the injuries inflicted by the accused-appellant or it was caused by the affect of Jaundice, as the learned counsel has limited his arguments to this aspect only without disputing other issues.

9. We have considered the said arguments in the light of the material placed before us. It is clear from the material placed on record that on 4.7.1980, the complainant PW-1 (brother of the deceased) received information from PW-4 (tea vendor) that his brother Surendra Singh (deceased) was being beaten up by the appellant and other co-accused. PW-1 immediately rushed to his brother and found that the appellant and other co-accused had surrounded his brother with a knife in the appellant's hand and the same was open. Upon PW1 reaching the place of occurrence, the appellant gave a blow to him with the knife inflicting injury on his right shoulder. The other co-accused then captured Surendra

Singh (deceased). When the complainant (PW1) tried to save his brother, the appellant pierced the knife in Surendra Singh's abdomen with intention to kill and in the result he sustained injuries and fell down.

10. PW 1-Ramesh Singh, immediately rushed to the police station along with his injured brother(deceased) and informed the police about the incident and gave a statement that his brother had been attacked with a knife by the accused and two others and the condition of his brother is very serious and he needs medical treatment. Thereafter P.W.12 (ASI) registered a Rapat Rozanamcha on the same day itself. A written report had also been given by PW-1 in the hospital whereupon the case under Section 307/34, IPC was registered, but on the death of Surendra Singh, the Section was altered to 302 and 302/34, IPC. During the course of treatment, a dying declaration of the deceased was also recorded.

11. P.W.-9, doctor conducted the post mortem examination and prepared the post mortem report, Ex.P12. The doctor found that the death was occurred because of shock due to peritonitis and that peritonitis was as a result of injury to liver, gall bladder and duodenum.

12. Apart from the exhibits marked on behalf of the prosecution, the injured eye-witness PW-1 Ramesh Singh in categorical terms, explained the commission of offence that had taken place.

13. The contention of learned counsel for the appellant is

that the cause of death is not by injuries inflicted by the appellant but because of Jaundice. On the contrary, the doctor who conducted post mortem, in clear terms, mentioned that the death has been caused because of the injuries suffered by the deceased. Apart from that, the other evidence on record also establishes that the death was caused because of the injuries to the vital parts of the body; one is at neck and other at abdomen and there is nothing on record to establish that the deceased was affected with Jaundice which caused his death.

14. Taking into consideration all the facts and circumstances of the case, it cannot be said that there was no intention of the appellant to kill the deceased and the death was caused due to Jaundice. Hence, there is no reason to interfere with the concurrent findings of the trial Court as well as the High Court. The appeal is, therefore, dismissed.

15. The appellant is on bail. His bail bonds stand cancelled and he is directed to surrender forthwith before the concerned authorities to serve out the remaining period of sentence.

.....J.  
(N.V. RAMANA)

.....J.  
(AMITAVA ROY)

New Delhi,  
October 12, 2017

ITEM NO.110

COURT NO.8

SECTION II

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

Criminal Appeal No(s). 2188/2010

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Appellant(s)

VERSUS

STATE OF RAJASTHAN

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Date : 12-10-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s)

Mr. Shakeel Ahmed, AOR

Ms. Sadiya Shakeel, Adv.

Ms. Farhat Jahan Rehmani, Adv.

For Respondent(s)

Mr. Irshad Ahmad, AOR (Not present)

UPON hearing the counsel the Court made the following

## O R D E R

None present on behalf of the respondent - State of Rajasthan.

The appeal is dismissed in terms of the signed order.

The appellant is on bail. His bail bonds stand cancelled and he is directed to surrender forthwith before the concerned authorities to serve out the remaining period of sentence.

(SUKHBIR PAUL KAUR)  
AR CUM PS

(S. SIVARAMAKRISHNA)  
ASST.REGISTRAR

(Signed order is placed on the file)