

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).6035/2009

(From the judgement and order dated 04/05/2009 in CRLA No.
2128/2005 of The HIGH COURT OF M.P AT JABALPUR)

BACHCHU @ NAND KISHORE Petitioner(s)

VERSUS

STATE OF M.P. Respondent(s)

(With appln(s) for bail and office report)

Date: 30/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.S. SIRPURKAR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. S.S.Dahiya, Adv.
Mr. L.K.Dahiya, Adv.
Mr. K.K.Baid, adv.
Mr. Manohar Singh Bakshi, Adv.
Ms. Sangeeta, Adv.
Mr. A.C.Prahdan, Adv.O
Mr. Debasis Misra,Adv.

For Respondent(s) Ms. Vibha Datta Makhija,Adv.

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

Leave granted.
The appeal is disposed of in terms of the signed
order.

(Shashi Sareen)
Court Master

(Shashi Bala Vij)
Court Master

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 1417 OF 2010
(Arising out of SLP(Crl.) No. 6035 of 2009)

BACHCHU @ NAND KISHORE ... Appellant(s)

Versus

STATE OF MADHYA PRADESH ... Respondent(s)

O R D E R

1. Leave granted.

2. Challenge in this appeal is to the judgment dated 4.5.2009 passed by the High Court in Criminal Appeal No. 2128 of 2005 whereby the High Court, while partly allowing the appeal, altered the conviction and sentence of the appellant from Section 302 read with Section 34 IPC to Section 304, Part-I read with Section 34 IPC and sentenced him to undergo imprisonment of seven years with fine of Rs. 500/-, in default, he was to suffer two months' rigorous imprisonment. The High Court has observed in para 10 of its impugned judgment as under:

"In view of the aforesaid discussion, this case does not appear to be a case of Section 302 of the IPC. The same appears to be a case of Section 304-I of the IPC because the appellants caused the injuries to the deceased knowing well that due to the same the person like deceased may die."

(emphasis supplied)

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3. We have heard learned counsel appearing for the parties.

4. Having regard to the facts and circumstances of this case and more particularly the emphasised portion in para 2, we hold that the offence would be covered by Section 304 Part II, I.P.C.. While maintaining the conviction, we, therefore, reduce the sentence awarded to the appellant by the High Court from seven years to five years.

5. With this modification, the appeal stands disposed of. The appellant-accused will be entitled to the benefit of Section 428 Cr.P.C.

.....J.
(V.S.SIRPURKAR)

.....J.
(CYRIAC JOSEPH)

New Delhi,
July 30, 2010.