

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**Criminal Appeal No. 569 of 2010**

**SANTOSH**

**Appellant(s)**

**VERSUS**

**STATE OF MADHYA PRADESH**

**Respondent(s)**

**ORDER**

The appellant stands convicted under Section 302 of the Indian Penal Code, 1860 (for short "IPC") for an assault made by him on 3 February 1991 upon the deceased, who expired the next day.

Learned counsel for the appellant submitted that the assault was under a grave and sudden provocation. There was no intention to cause death. Only a single injury has been caused. The conviction deserves to be altered to Section 304 Part II, IPC.

We have heard learned counsel for the State also.

According to the prosecution allegations, the appellant was in the habit of teasing the sister of the deceased. Despite being warned not to do so, he did not desist from the same.

The weapon of offence seized vide Ext. P-4 is a 17 inch long knife with a 7 inch butt and a 10 inch sharp side.

PW-8 is an independent witness who saw the assault.

The fact that the deceased when accosted by the appellant holding a knife in his hand, may have in an effort to prevent injury to himself, had a scuffle with the appellant cannot be extended to be understood as a verbal altercation or a duel between the parties prior to the assault so as to enable the appellant to seek the benefit under Section 304 Part II, IPC. The argument that it was a single assault with a knife also does not appeal.

Keeping in mind the size of the knife, the single injury was so severe that the membrane of the stomach came out and intestine was also cut. There was an injury on the neck also and below the rib on the left side of the stomach 3 cm x  $\frac{3}{4}$  cm.

We find no reason to interfere with the conviction of the appellant.

The appeal is accordingly, dismissed.

The bail bonds of the appellant are canceled and he is directed to surrender forthwith to serve out the remaining period of his sentence.

Pending application(s), if any, shall stand disposed of.

.....J.  
(Navin Sinha)

.....J.  
(R. Subhash Reddy)

New Delhi  
September 3, 2019

ITEM NO.104

COURT NO.12

SECTION II-A

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

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STATE OF MADHYA PRADESH

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Date : 03-09-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA  
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Appellant(s)

Mr. Rajul Shrivastav, Adv.  
Mr. S. K. Verma, AOR

For Respondent(s)

Mr. Varun Chopra, Adv.  
Ojasvi Sharma, Adv.  
Mrs. Swarupama Chaturvedi, AORUPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)  
COURT MASTER (SH)(SAROJ KUMARI GAUR)  
BRANCH OFFICER

(Signed order is placed on the file)