

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.1044-1045 OF 2009

RAM KUMAR & ANR.

APPELLANT(S)

VERSUS

THE STATE OF PUNJAB ETC.

RESPONDENT(S)

O R D E R

1. Heard counsel for the parties.
2. These appeals assail the judgment dated 18<sup>th</sup> July, 2008 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No.85DBA of 2000 and Criminal Revision No.842 of 1999 respectively.
3. The trial Court acquitted the appellants who were charged for offence punishable under Section 302/34 of the Indian Penal Code. The High Court, however, reversed the finding of acquittal but converted the offence from Section 302/34 of the Indian Penal Code to Section 304-II/34 of the Indian Penal Code and awarded sentence to both the appellants to undergo rigorous imprisonment for a period of seven years in connection with the subject offence.

4. We have perused the relevant record including the judgment of the trial Court as well as the High Court and, in particular, the evidence of PW-4 and PW-5. As regards the finding of guilt recorded against appellant No.1 (Ram Kumar), we find that the view taken by the High Court is a possible view. That need not be interfered with in these appeals. The appeals *qua* appellant No.1, Ram Kumar, therefore, stand dismissed.

5. However, these appeals can partly succeed to the extent of appellant No.2 (Karnailo @ Karnail Kaur), who has also been convicted by the High Court for the offence punishable under Section 304-II/34 of the Indian Penal Code. In that, upon perusal of the evidence of prosecution witnesses and, in particular, evidence of PW-4 and PW-5, who were present at the scene of offence, there is nothing in their evidence to indicate that the appellant No.2, Karnailo @ Karnail Kaur had participated in commission of offence in a manner to share the same intention as that of appellant No.1. It is obvious from the material on record that the incident had happened on the spur of the moment and in quick succession. There

was hardly any time for appellant No.2 to confer with appellant No.1, so as to attribute any motive muchless same intention for commission of the offence committed by appellant No.1.

6. Suffice it to observe that appellant no.2 cannot be made responsible for the act of appellant No.1 by invoking Section 34 of the Indian Penal Code. Appellant No.2 can be proceeded for some other offence of having obstructed the minor child, Karamjit Singh, from fleeing from the spot, which would certainly not be one under Section 304-II of the Indian Penal Code. The appellant No.2 has already undergone about two years of imprisonment, which in our opinion, is adequate in reference to her role and for having participated in the stated offence. Hence, the appeals filed by appellant No.2 would succeed and she is ordered to be released forthwith in connection with the subject offence on the basis of sentence already undergone, if not required in any other criminal case.

7. The appeals are disposed of in the above terms.

8. Since, we have finally disposed of the appeals, we deem it appropriate to drop the *suo motu* proceedings initiated against Rajinder Singh. We order accordingly.

9. All pending applications are also disposed of.

....., J.  
(A.M. KHANWILKAR)

....., J.  
(DINESH MAHESHWARI)

NEW DELHI  
NOVEMBER 06, 2019

ITEM NO.101

COURT NO.8

SECTION II-B

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). 1044-1045/2009

RAM KUMAR &amp; ANR.

Appellant(s)

VERSUS

THE STATE OF PUNJAB ETC.

Respondent(s)

Date : 06-11-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Appellant(s) Mr. Ajay Kumar Singh, AOR  
Mr. S.K. Pabbi, Adv.  
Mr. Shika Roy, Adv.  
Mr. Ramesh Tiwari, Adv.

Mr. Surya Kant, AOR (NP)

For Respondent(s) Ms. Jaspreet Gogia, AOR

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

The appeals are disposed of in terms of the signed order.

*Suo motu* proceedings initiated against Rajinder Singh is dropped.

All pending applications are also disposed of.

(NEETU KHAJURIA)  
COURT MASTER

(VIDYA NEGI)  
COURT MASTER

(Signed order is placed on the file.)