

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No(s). 2301/2010

THE STATE OF MADHYA PRADESH

Appellant(s)

VERSUS

SHIVRAJ SINGH

Respondent(s)

O R D E R

We have gone through the judgment of the High Court and also perused the other documents with the assistance of learned counsel for the State.

The allegation against the respondent was that on 06.11.2003, a complaint was lodged that Dharmendra, nephew of the deceased, was beaten by Rajababu. Dharmendra came home and narrated the episode to his mother. Thereafter, the deceased went to the house of Lakhan Kurmi to complain about Rajababu. On the way back, she met Netram, who is a younger brother of the respondent. Netram and the deceased entered into an altercation abusing each other. Thereafter, an altercation took place between the deceased and the respondent. During this fight, the respondent picked up a Trishul kept in a temple adjoining the place of occurrence and dealt a blow on the head of the deceased.

After the FIR was lodged, the police completed all the investigations and filed report under Section 173 of the Code of Criminal Procedure, 1973 (CrPC). After trial, the accused was convicted for having committed an offence under Section 302 of the

Indian Penal Code, 1860 (IPC). Aggrieved by the order of the Trial Court, an appeal was filed before the High Court. The High Court held that the offence was not an offence of murder but of culpable homicide not amounting to murder falling within the ambit of Part II of Section 304, IPC.

Three facts weighed with the High Court; (i) that the accused had not taken any weapon with him and picked up the Trishul at the site where the altercation took place, (ii) only a single blow was given on the head, and (iii) that there were no piercing wound on the skull, meaning thereby, the Trishul has been used from the side.

The incident took place in 2003. Sixteen years have elapsed and at this stage it may not be appropriate to re-open the matter. Furthermore, we find no error in the order of the High Court in giving the benefit of two views which could be taken of an incident. When two views are possible, a view in favour of the accused had to be taken.

Consequently, we find no merit in the present appeal and therefore the same is dismissed.

.....J.  
[DEEPAK GUPTA]

.....J.  
[ANIRUDDHA BOSE]

NEW DELHI;  
September 24, 2019.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

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Date : 24-09-2019 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE ANIRUDDHA BOSEFor Appellant(s) Mr. Rahul Kaushik, AOR  
Ms. Bhuvneshwari Pathak, Adv.  
Ms. Shilpi Satyapriya Satyam, Adv.  
Ms. Indrani Das, Adv.

For Respondent(s) Mr. Anil Shrivastav, AOR

UPON hearing the counsel the Court made the following

## O R D E R

The criminal appeal is dismissed in terms of the signed order.  
Pending application, if any, stands disposed of.

(MEENAKSHI KOHLI)  
COURT MASTER(RENU KAPOOR)  
COURT MASTER

[Signed order is placed on the file]