

CASE NO.:
Appeal (crl.) 113 of 2008

PETITIONER:
BANDHAN

RESPONDENT:
STATE OF CHHATTISGARH

DATE OF JUDGMENT: 15/01/2008

BENCH:
CJI K.G. BALAKRISHNAN & R.V. RAVEENDRAN

JUDGMENT:
JUDGMENT

O R D E R
CRIMINAL APPEAL NO.113 OF 2008
(Arising out of SLP(Crl.) No.3444/2007)

Heard learned counsel for appellant and learned counsel for the State.
Leave granted.

The appellant was convicted for the offence of murder for causing the death of Somari. The prosecution case was that the appellant had gone to his uncle's house. The deceased Somari was also there. When they were talking each other, the appellant addressed the deceased as 'Dian' (hag) to which the deceased objected. The appellant became upset, took a stick and hit her on the head. The deceased fell down and died.

Learned counsel for the appellant made a plea that the offence does not fall under Section 302 IPC. There was no previous enmity or other motive to cause the death of the deceased. From the evidence, it is clear that the incident

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happened all of a sudden without pre-mediation and the appellant did not take undue advantage of the situation nor acted in a cruel manner. The offence will, therefore, fall under Section 304 Part I of IPC.

We, therefore, set aside the conviction under Section 302 IPC and instead the appellant is convicted under Section 304 Part I IPC and sentenced to undergo imprisonment for a period of eight years. We are informed that the appellant has already undergone sentence of more than seven years. If the appellant has already undergone sentence for the said period, the appellant shall be released forthwith, if not required in any other case. The appeal is disposed of accordingly.