

CASE NO.:
Appeal (crl.) 1290-1292 of 1995

PETITIONER:
State of Madhya Pradesh

RESPONDENT:
Harilal

DATE OF JUDGMENT: 18/12/2002

BENCH:
N. SANTOSH HEGDE & ARUN KUMAR.

JUDGMENT:
J U D G M E N T

SANTOSH HEGDE, J.

The respondents in the above 3 appeals were charged for offences punishable under Section 302 read with Section 34 IPC before the learned Additional Sessions Judge, Sheopuri, M.P. who by his judgment dated 8.9.1983 found the respondents guilty of the said offence and sentenced them to undergo imprisonment for life. On appeal, the High Court of Madhya Pradesh, Jabalpur Bench at Gwalior partly allowed the appeal of the respondents and converted the conviction to one u/s. 304 (Part II) IPC, and sentenced them to imprisonment for the period already undergone. It is against this judgment of the High Court that the State is in appeal before us. In view of the peculiar facts of these appeals, it may not be necessary for us to deal in detail with the prosecution case. Suffice it to say that according to the prosecution the respondents having entertained certain enmity, attacked one Lachhu with an axe, iron rod and stones, consequent to which said Lachhu died. It is stated that Hari Lal, respondent in CrI.A. No.1290 attacked the deceased with an axe. Respondent in CrI.A. No.1291 Babu attacked with an iron rod while their mother, respondent in CrI.A. No.1292, Dukhia attacked the deceased with a stone. Because of the said attack, it is stated that the deceased suffered 5 injuries out of which injury No.1 was an incised injury wound, in the left parietal region, injury No.2 was a wound on the occipital bone, injury No.3 was a depressed fracture on the left parietal bone while injury Nos.4 and 5 were bruises on the arm and hip. The doctor had opined that injury Nos.1 and 2 were grievous and on post mortem it was found that they were the cause of death. The prosecution has examined nearly 24 witnesses. Learned Sessions Judge having discussed the entire evidence on record had come to the conclusion that the respondents were guilty of the offence alleged against them and had sentenced them as stated above, while the High Court has reduced the sentence to one u/s. 304, Part II, IPC. In these appeals, Mr. Dave, learned counsel appearing for the State, strongly contended that the High Court in its judgment had not given any special reasons for having come to the conclusion that the offence committed by the appellant was not one punishable u/s. 302 IPC but was one which is punishable u/s. 304, Part II, IPC. He copiously pointed out from the judgment of the trial court to substantiate his argument why the respondents should be held guilty of the offence u/s. 302 IPC.

While we appreciate the argument of the learned counsel for the appellant that the High Court was extremely brief while discussing the evidence against the respondents and had hardly

given any reason for reducing the sentence from 302 to 304, Part II, IPC, we should bear in mind the fact that the incident in question had taken place as far back as on 11.10.1982 and from the records we find that by the time the High Court delivered its judgment, all the respondents had served more than 9 years of RI and even these appeals before us were filed in the year 1995 hence having perused the records, we think at this distance of time, that too when the respondents have served almost more than 9 years of imprisonment, we think it not equitable to entertain the argument of learned counsel for the State to upturn the judgment of the High Court assuming the same is erroneous. We think substantial justice has been done.

In the said view of the matter, we dismiss these appeals.