

PETITIONER:
SANGAR ABOINA SREENA

Vs.

RESPONDENT:
STATE OF ANDHRA PRADESH

DATE OF JUDGMENT: 23/04/1997

BENCH:
M.K. MUKHERJEE, S.P. KURDUKAR

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

The appellant was put up for trial before the Sessions Judge, Warangal for uxoricide. The accusation against him was that on May 15, 1987 at or about 9.30 p.m he poured kerosene oil on the body of his wife and set her on fire. The trial Court convicted the appellant under Section 302 IPC but in the appeal preferred by him the High Court set aside his above conviction and convicted him under Section 306 IPC. The above judgment of the High Court is under challenge in this appeal.

This appeal must succeed for the simple reason that having acquitted the appellant for the simple under Section 302 IPC - which was the only charge framed against him - the High court could not have convicted him of the offence under Section 306 IPC. It is true that Section 222 Cr.P.C. entitles a Court to convict a person of an offence which is minor in comparison to the one for which he is tried but Section 306 IPC cannot be said to be a minor offence in relation to an offence under Section 302 IPC within the meaning of Section 222 C.P.C. for the two offences are of distinct and different categories. while the basic constituent of an offence under Section 302 IPC is homicidal death those of Section 306 IPC are suicidal death and abetment thereof.

for the foregoing reason the appeal is allowed and the conviction of the appellant under Section 306 IPC is set aside. The appellant, who is on bail, who is on bail, is discharged from his bail bonds.