

PETITIONER:
SANJAY KUMAR AND ANOTHER

Vs.

RESPONDENT:
STATE OF M.P.

DATE OF JUDGMENT 15/02/1993

BENCH:
AHMADI, A.M. (J)
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AHMADI, A.M. (J)
MOHAN, S. (J)

CITATION:
1994 SCC Supl. (1) 502

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Special leave granted.
2. We have heard learned counsel for the appellants as well as the State of Madhya Pradesh. We have also before us the learned counsel for the original complainant. The trial court had acquitted the appellants but the High Court convicted them under Section 307 IPC and sentenced them to rigorous imprisonment for three years. The learned counsel for the appellants rightly pointed out that all the six incised wounds were not more than 1/2 inch in size and were skin deep and, therefore, the High Court was not right in attributing an intention to cause death. The High Court came to the conclusion that having regard to the fact that a sharp cutting instrument was used and certain injuries were caused on the chest portion of the complainant-PW 2, the intention of the assailant was clearly to commit murder and, therefore, the offence fell within the ambit of Section 307 IPC. We are afraid we cannot accept this approach of the High Court. The circumstances under which the incident occurred do not permit such an inference. The quarrel took place suddenly. The complainant too had a criminal history. When the complainant objected to the language used by the appellants the latter reacted and these injuries were caused. There was no motive whatsoever. There could be no intention to kill. In order to bring the case within the ambit of Section 307 IPC, it must be shown that the accused acted with such intention or knowledge and under such circumstances that if he by that act caused death, he would be guilty of murder. To justify a conviction under this provision an intention or knowledge to constitute murder must exist, it is a different matter that the act fell short of that offence. The injuries caused are only skin deep and having regard to the size of the injuries it would not be permissible to infer that the assault was launched with such intent. Besides there is no evidence to show that any X-Ray was taken, though advised, and, if yes, that the X-Ray

revealed any serious injury. Taking an overall view of the matter, we are of the opinion that at best even if we accept the evidence of prosecution witnesses viz., PWs 2, 4 and 5 as has been done by the High Court, the case would fall within the scope of Section 324 IPC. Since the parties who are neighbours have expressed a desire to compound the matter and since the learned counsel for the complainant who is present before us has also stated that her client has desired that permission to compound the matter may be granted to ensure lasting peace, we see no difficulty in granting the permission to the parties to compound the matter. An affidavit in that behalf has already been filed and the same is on record. We accept the same and treat the matter as compounded. In view thereof the conviction and sentence are set aside and the appellants will stand acquitted as the matter has been compounded with the permission of the Court. The appeal will stand disposed of accordingly.

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