



2024 INSC 936

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**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 4952 OF 2024
(Arising out of SLP (Crl.) No. 14289 of 2024)

HARE RAM YADAV

...APPELLANT(S)

VERSUS

STATE OF BIHAR

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAI, J.

1. Leave granted.
2. The present appeal challenges the judgment and order dated 20th August 2024 passed by the Division Bench of the High Court of Judicature at Patna in Criminal Appeal (DB) No. 237 of 2019 *vide* which the appeal filed by the appellant has been dismissed and the judgment and order dated 30th January 2019 passed by the learned Additional Sessions Judge, Saran convicting the appellant for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short 'the IPC') and sentencing him to suffer

imprisonment for life, has been affirmed.

3. Shorn of details, the facts giving rise to the appeal are

as under :

3.1 First Information Report (for short 'the FIR') came to be lodged by PW-5-Ranglal Yadav, who is the husband of the deceased, stating that on 9th November 2015 at around 10.00 a.m., the present appellant who was the tenant of PW-5-Ranglal Yadav came at his door, since he was annoyed with the removal of the bricks from the door. He further informed that the appellant started hurling abuses at the deceased and when she objected, he assaulted the wife of PW-5-Ranglal Yadav by means of a knife on her chest causing grievous injuries and fled from there. It is further stated in the FIR that the deceased was brought to a Doctor at Mohammadpur from where she was taken to Manjhi Hospital and during the course of treatment she died.

3.2 On the basis of the oral report, FIR No. 221 of 2015 came to be registered at P.S. Manjhi on 9th November 2015 against the appellant. Upon completion of investigation, a charge sheet came to be filed before the learned ACJM,

Chapra. Since the case was exclusively triable by the Sessions Court, the same came to be committed to the Court of Sessions. Learned Additional Sessions Judge on the basis of the evidence came to a finding that the appellant was guilty of the offence punishable under Section 302 of the IPC and, therefore, convicted him of the same and sentenced him to suffer imprisonment for life. Being aggrieved thereby, the appellant preferred an appeal before the High Court which was also dismissed. Hence, the present appeal.

4. We have heard Mr. Smarhar Singh, learned counsel appearing on behalf of the appellant and Mr. Azmat Hayat Amanullah, learned counsel appearing on behalf of the respondent-State.

5. Mr. Smarhar Singh, learned counsel appearing on behalf of the appellant submits that all the witnesses are interested witnesses, being the relatives of the deceased. He further submits that apart from the oral testimony of the witnesses, there is no other evidence to implicate the present appellant. He submits that even the alleged knife which is stated to be used in the crime has not been recovered.

6. Shri Singh, in the alternative, submits that in any case, the case would not fall under Section 302 of the IPC. He submits that there was no premeditation. According to the learned counsel, from the evidence of the prosecution witnesses itself, it would be clear that the incident happened at the spur of a moment in a sudden fight due to the provocation by the deceased. He therefore, submits that the case would fall either under Part I or Part II of Section 304 of the IPC.

7. Mr. Azmat Hayat Amanullah, learned counsel appearing for the respondent-State vehemently opposes the appeal. He submits that there are testimonies of five eyewitnesses which consistently implicate the present appellant. In any case, he submits that the injury was on the chest which is a vital body part and therefore, the learned trial Judge as well as the learned High Court have rightly convicted the appellant for the offence punishable under Section 302 of the IPC. He therefore, prays for dismissal of the appeal.

8. From the evidence of Dr. Chandeshwar Singh (PW-6) and the Post-Mortem report, we do not find that any

interference is warranted with the finding of the learned trial Judge that the death of the deceased is homicidal.

9. From the evidence of Lilawati Devi (PW-1), Dhannu Kumar Yadav (PW-2), Dhananjay Kumar Yadav (PW-3), Bidya Sagar Yadav (PW-4) and Ranglal Yadav (PW-5), the first informant, we find that the prosecution has proved that it is the present appellant, who is responsible for the death of the deceased.

10. Though, learned counsel for the appellant has strenuously argued that all the five witnesses are relatives of the deceased and therefore, their testimonies should be discarded, we are unable to accept the said contention. Merely because the witnesses are relatives, cannot be a ground to discard the testimony of such witnesses. The only requirement is that the testimonies of such witnesses have to be scrutinized with greater caution and circumspection.

11. Perusal of all the five witnesses would reveal that though they have been thoroughly cross-examined, their evidence in examination in-chief has remained unshaken. In that view of the matter, we find that the learned trial Judge

as well as the learned High Court have rightly held that it is the appellant who has caused the death of the deceased.

12. Having said so, the next question that will be required to be considered is as to whether the conviction under Section 302 of the IPC needs to be maintained or altered to a lesser offence.

13. From the evidence of the first informant, which is on similar lines to the other witnesses, it would reveal that someone had taken out a brick from the pile of bricks. Those pile of bricks belonged to the appellant. Angered by this, the appellant started abusing the wife of Ranglal Yadav (PW-5). The wife of PW-5 objected and warned the appellant not to abuse her. It is further seen from the evidence of Bidya Sagar Yadav (PW-4) that the deceased told the appellant that if he has courage, he may dare to kill her. Thereafter, the appellant assaulted the deceased with the knife.

14. A perusal of the evidence would therefore, reveal that there was no premeditation. The incident occurred on account of a quarrel that erupted between the deceased and the appellant on a trivial issue. The appellant appears to

have lost his control and assaulted the deceased with the knife.

15. We find that the incident has occurred on account of a grave and sudden fight in the heat of anger due to the provocation by the deceased. A perusal of the evidence would also reveal that it is a case of a single injury. There is no evidence to show that the appellant has acted in a cruel manner or has taken undue advantage of the situation.

16. In that view of the matter, we find that the appellant would be entitled to have the benefit of exception under Section 300 of the IPC.

17. In the result, we pass the following order:

- (i) The appeal is partly allowed.
- (ii) The conviction of the appellant is converted from Section 302 of the IPC to Part-I of Section 304 of the IPC.
- (iii) The appellant has already suffered incarceration of about nine years and ten months with remission.

We therefore, find that the sentence already undergone by him would subserve the ends of justice. The appellant is therefore, sentenced to the period already undergone.

(iv) The appellant is, therefore, directed to be released forthwith, if not required in any other case. If the fine as imposed by the learned Additional Sessions Judge is not paid by him, the same shall be paid within a period of two weeks from today.

18. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(K.V. VISWANATHAN)

NEW DELHI;
DECEMBER 03, 2024.