

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

**CRIMINAL APPEAL NO.1505 OF 2017
(ARISING OUT OF SLP (CRIMINAL) NO. 3688 OF 2017**

FIRAOZ GANI MUJAWAR

...APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA

...RESPONDENT(S)

ORDER

Leave granted.

This appeal by special leave is directed against the judgment and order passed by the High Court of Judicature at Bombay, dated 17.01.2014, in Criminal Appeal No. 548 of 2008, whereby the High Court has dismissed the appeal and confirmed the conviction of the appellant for an offence under Section 302 of the IPC.

A brief reference to the facts of the case may be necessary to deal with the case at hand. Accused-appellant (Firoj Gani Mujawar) and juvenile offender (Isak Hussain Shaik) belonged to the same colony. Deceased (Biru Lakshman Pujari) was residing in the same vicinity with his family. It is an admitted

fact that the deceased had acquaintance with the aforesaid accused as he used to work under the father of the accused (Gani Rasul Mujawar) some time ago. It was alleged that the deceased was having an illicit relationship with the mother of the accused. On the day of the incident, at about 8:00 PM to 8:30 PM, one boy informed that the deceased was lying in an injured condition in front of the house of one Chandrakant Pawar. Thereafter one Indubai laxman Pujari admitted the deceased to the Hospital. Based on the above facts, an FIR was registered under Sections 307, 34 of IPC and 37(1), 135 of Bombay Police Act, before Karad City Police Station, being FIR No. 228 of 2004. After the death of the deceased, Section 302 was added subsequently.

After a full-fledged trial, the trial court convicted the accused under Section 302 of IPC and sentenced him to imprisonment for life and ordered him to pay a fine of Rs. 500, in default, a further imprisonment of one month. Aggrieved by the order of the trial court, the accused-appellant appealed before the High Court. The High Court, while dismissing the appeal, upheld the order of trial court. Therefore, this appeal is filed by the accused before this court.

There is no dispute as to the fact that this is a case of circumstantial evidence. We are aware of the fact that there

were some injuries, but those are not sufficient in the ordinary course of nature to cause death. As per Dr. Jadhav (PW-7), the proximate cause of the death was septicaemia in an operated case. Having regard to the fact that the deceased survived for fifty one days, we are of the opinion that the injury caused was not sufficient to attract Section 302. Further our attention was drawn to the aspect that the deceased was having an illicit relationship with the mother of the accused.

Taking into consideration all the facts and circumstances of the case and the nature of the injuries, we think that it is a fit case where the conviction can be modified to Section 304 Part I of IPC. Accordingly, conviction of the appellant under Section 302 IPC is modified to Section 304 Part I IPC and he is sentenced to undergo rigorous imprisonment for a period of ten years. The payment of fine and sentence in default thereof, as imposed by the trial court, is affirmed. The appeal is partly allowed to the above extent.

.....J.
(N. V. Ramana)

.....J.
(Prafulla C. Pant)

NEW DELHI

AUGUST 25, 2017

ITEM NO.22

COURT NO.9

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3688/2017

(Arising out of impugned final judgment and order dated 17-01-2014 in CRLA No. 548/2008 passed by the High Court Of Judicature At Bombay)

FIROZ GANI MUJAWAR

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(FOR EXEMPTION FROM FILING CERTIFIED COPY OF IMPUGNED ORDER ON IA 7805/2017

FOR EXEMPTION FROM FILING O.T. ON IA 7806/2017)

Date : 25-08-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. Sushil Karanjkar, Adv.

For Mr. K. N. Rai, AOR

For Respondent(s)

Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is partly allowed to the extent indicated in the signed order.

(SUKHBIR PAUL KAUR)
AR CUM PS

(SHAKTI PARKASH SHARMA)
ASST.REGISTRAR

(Signed order is placed on the file)