

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). _____ /2019
(Special Leave Petition (Crl.) No(s).356/2019)

RAHUL @ KAMAL

APPELLANT(s)

VERSUS

THE STATE OF CHHATTISGARH

RESPONDENT(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

Notice was issued in this appeal by this Court to consider the submission of the appellant whether the appellant can be convicted for the offence under Section 304 Part-I IPC.

PW-5 is the sole believable eye witness in the matter. Though PW-12 was examined as an eye witness, he was rightly held to untrustworthy by both the courts. The evidence of PW-5 reveals that there was some altercation between the deceased and the accused regarding cycle and immediately thereafter both the accused assaulted on the head of the deceased with sticks. The records reveal that there is no premeditation as such and/or that the accused came to the spot with preparation. The incident has happened due to petty quarrel. The deceased and both the accused are co-villagers. It is common to carry the sticks, sickle and other agricultural implements while going to and coming from the

agricultural fields. Having regard to the material on record, in our considered opinion, justice would be met in case the appellant is convicted under Section 304 Part-I IPC and not under Section 302 IPC. Ordered accordingly.

It is brought to our notice by the learned counsel for the parties that the accused has already undergone 14 years imprisonment. In our considered opinion, the period of imprisonment already undergone by the appellant is sufficient sentence to be imposed on the appellant. Accordingly, the appeal stands allowed in part. The appellant should be set at liberty forthwith.

It is also brought to the notice of the Court that the co-accused namely, Rakesh has not filed appeal. The facts are common inasmuch as both the accused assaulted on the head of the deceased with sticks on minor altercations between the accused and the deceased. Hence, the benefit of this judgment should also enure to the co-accused namely Rakesh. He is convicted under Section 304 Part I IPC. We make it clear that if the accused namely, Rakesh has already undergone imprisonment more than 10 years then he shall be released forthwith.

.....J.
[MOHAN M. SHANTANAGUDAR]

.....J.
[KRISHNA MURARI]

NEW DELHI;
NOVEMBER 19, 2019.

ITEM NO.11

COURT NO.13

SECTION II-C

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 (CrI.) No(s). 356/2019

(Arising out of impugned final judgment and order dated 31-10-2011 in CRLA No. 160/2008 passed by the High Court Of Chhatisgarh At Bilaspur)

RAHUL @ KAMAL

Petitioner(s)

VERSUS

THE STATE OF CHHATTISGARH

Respondent(s)

(FOR ADMISSION and IA No.111209/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 111209/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 19-11-2019 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. Ajit Sharma, AOR (SCLSC)

For Respondent(s) Mr. Sumeer Sodhi, AOR
Mr. Ashish Tiwari, Adv.

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

Leave granted.

The appeal stands allowed in part in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI THAKUR)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file)

