



2026:AHC:22545-DB

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
JAIL APPEAL No. - 311 of 2018**

Jagannath

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Devendra Pratap Singh, From Jail
Counsel for Respondent(s)	: A.G.A.

Court No. - 48

**HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE DEVENDRA SINGH-I, J.**

Per Hon'ble Chandra Dhari Singh, J.

1. This Criminal appeal has been filed against the judgement and order dated 25.02.2017 passed by the Additional Sessions Judge, Court No. 3, Mathura in ST No. 24 of 2013, under Section 302, 307 IPC, police station Goverdhan, district Mathura whereby the learned Judge convicted and sentenced the appellant to life imprisonment and a fine of Rs. 5,000/- under Section 302 IPC and in default of payment of fine, the appellant was further directed to undergo additional simple imprisonment of two years. He was further convicted and sentenced to one year simple imprisonment and a fine of Rs. 1000/- under Section 323 IPC and in default of payment of fine, he was to undergo one month's additional imprisonment.

2. However, both the sentences were directed to run concurrently.

Brief Facts

3. In short compass, the facts of the case are that a written report was given by Krishna Das, son of Madhusudan, resident of Barsana, district Barsana, district Mathura (hereinafter referred to as the "first informant") to the Station House Officer, police station Goverdhan that there is a hand pump in the house of his sister Meera. Jagannath, disciple of Anant Das, was filling water from that hand pump, due to which it has become muddy. On the objection of her sister as to why he has got the hand pump muddy, he started abusing her. When Ashok Pal, who was working in the house of Arvind Haldhar, tried to intervene in the matter, accused with an intention to kill, inflicted knife blow on Ashok Pal on his chest. He also assaulted the first informant with an intention to kill, on his hand. After the assault, accused fled away along with his disciple. Ashok Pal was taken to the hospital, where doctor declared him dead. This incident occurred at 10.00 hours on 09.08.2012.

4. On the basis of the aforesaid report, a Chik FIR was registered at Case Crime No. 469 of 2012, under Section 302 and 307 IPC, police station, Goverdhan, which was entered in the GD vide report No. 29 at 11:00 AM.

5. After the registration of the FIR, SI D.L. Pal, who was present at the police station, rushed to the spot and

conducted inquest on the body of the deceased and prepared papers relating to postmortem examination. He also handed over the cadaver of the deceased to Constable Pushpal Singh and Constable Asharam for getting postmortem examination done.

6. PW-4, Dr. Sanjeev Gupta, conducted autopsy on the cadaver of the deceased and found the following injuries:

- 1. Incised wound of size 2 cm x 1 cm cavity deep just below the left nipple, oblique ward lower end in 5 cm from the mid line of chest, upper end in 6 cm from the mid line of chest.*
- 2. An incised wound of size 3 cm x 1 cm skin deep 2 cm anterior to left side of chest.*

In the opinion of the doctor, the cause of death was shock and haemorrhage as a result of ante-mortem injuries.

7. Injured Krishna Das was taken to Primary Health Centre by Constable 2192, Tehsildar Singh, where he was examined by PW-7, Dr. Rajendra Singhal, Medical Superintendent, who found the following injuries on the person of injured Krishna Das:

“Incised wound 1 cm x 2 cm x 3 cm deep on left side of hand.”

In the opinion of the doctor, the injury was simple in nature and was caused by some sharp edged weapon.

8. Investigation of the case was taken up by PW-6, Raghvendra Singh, who was posted as Station House Officer, Goverdan. He inspected the spot and prepared site plan. After the arrest of the accused he recovered knife which was used in the commission of the crime on the pointing out of the accused. He also collected bloodstained clothes of the accused, plain and bloodstained earth and prepared memos thereof. After culmination of investigation, the investigating officer submitted charge sheet against the appellant.

9. As the case was exclusively triable by the Court of Sessions, the learned Magistrate committed the case to the Court of Sessions, where case was registered as ST No. 24 of 2013. Learned Additional Sessions Judge, Court No. 3, Mathura framed the charges against the accused-appellant, which was read over and explained to him.

10. To bring home guilt of the appellant, the prosecution has examined as many as seven witnesses, out of which PW-1, Krishna, PW-2, Meera Dasi, PW-3, Pradeep Das are the witnesses of fact, whereas PW-4, Dr. Sanjeev Gupta, who conducted post-mortem examination on the cadaver of the deceased, PW-5, Satish Chandra, who prepared Chik FIR, PW-6, Raghvendra Singh, the investigating officer of the case and PW-7, Dr. Rajendra Singhal, who examined the injured, are the formal witnesses.

11. After the closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. who pleaded not guilty and claimed to be tried.

12. Learned Additional Sessions Judge, Court No. 3, Mathura after hearing the learned counsel for the parties and assessing, evaluating and scrutinizing the evidence on record, convicted and sentenced the accused-appellant as indicated herein above.

13. Hence, this appeal.

Submission on behalf of the appellant

14. Learned counsel for appellant-accused at the very outset submits that he restricts his argument only to the extent for conversion of the sentence from Section 302 to Section 304 IPC and submits that keeping in view the injuries received by the deceased-Ashok Pal and the injured Krishna Das, caused by the appellant, the case shall not traverse beyond the purview of Section 304 Part-II IPC.

Submissions on behalf of the State

15. On the other hand, Shri Niraj Kumar Tiwari, learned Additional Government Advocate representing the State submitted that the accused caused injury by knife on the chest of the deceased, which resulted in his death and there was no grave or sudden provocation, the learned Trial Court on appreciation of the entire evidence on

record, has rightly convicted and sentenced the appellant. for the offence punishable under Section 302 IPC.

Analysis and conclusion

16. Heard learned counsel for the appellant and learned Additional Government Advocate and gone through the entire evidence of the case.

17. There is no absolute proposition of law laid down by the Hon'ble Supreme Court in any of the decisions that in a case of a single blow Section 302 IPC shall not be attracted. Hon'ble Supreme Court in a catena of judgements has held that number of injuries is not the determining factor for ascertaining the intention.

18. For better appreciation of the contention of learned counsel for the appellants, we would like to refer certain pronouncement of Hon'ble Supreme Court on the point in question insofar as the appellant is concerned.

19. In ***Jagtar Singh Vs. State of Punjab*** (1983) 2 SCC 342, accused on the spur of moment inflicted a knife blow on the chest of the deceased. The injury proved fatal. The doctor opined that the injury was sufficient in the ordinary course of nature to cause death. The Apex Court observed that quarrel was of a trivial nature and even in such a trivial quarrel appellant wielded a weapon like a knife and landed a blow on the chest. In these circumstances, it is permissible to infer

that the accused at least could be imputed with the knowledge that he was likely to cause an injury which was likely to cause death. The Court altered the conviction of the appellant from Section 302 IPC to Section 304 Part II IPC and sentenced the accused to suffer rigorous imprisonment for five years.

20. In **K. Ramakoteswara Rao Vs. State of A.P.**, 1986 Cr.L.J. 680, a sudden quarrel arose between the accused and the deceased and the deceased threatened the accused with dire consequences. The accused stabbed the deceased with knife. The Court convicted the accused under Section 304 Part-I IPC.

21. In **Surinder Kumar Vs. Union Territory, Chandigarh**, (1989)2 SCC 217, Hon'ble Apex Court held that if on a sudden quarrel a person in the heat of the moment picks up a weapon which is handy and causes injuries out of which only one proves fatal, he would be entitled to the benefit of the Exception provided he has not acted cruelly. Hon'ble Supreme Court held that the number of wounds caused during the occurrence in such a situation was not the decisive factor. What was important was that the occurrence had taken place on account of a sudden and unpremeditated fight and the offender must have acted in a fit of anger. Dealing with the provision of Exception 4 to Section 300, Hon'ble Supreme Court held thus:

"..... To invoke this exception four

requirements must be satisfied, namely, (i) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor is it relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly."

22. In **V. Sreedharan Vs. State of Kerala**, AIR 1992 SC 754, the accused, as a result of provocation caused in the heat of passion upon a sudden quarrel, chased the deceased to some distance and then gave the single fatal blow, it was held that the whole incident was a continuous sequence. Hence the conviction of the accused was shifted from Section 302 to Section 304 Part-I IPC.

23. In **Bhera Vs. State of Rajasthan**, 2000 SCC (Cri) 1230, accused and the deceased quarrelled and while quarrelling the accused in anger suddenly took out the knife and gave knife blow on the chest of the deceased which resulted in his death. The Apex Court set aside the conviction of the appellant under Section 302 IPC, instead convicted him under Section 304 Part II IPC and sentenced him to 5 years imprisonment.

24. In **Mochi Raju Vs. State of Gujarat**, JT 2001 (10) SC 398, accused appellant and the deceased started fighting and during the quarrel appellant took out the knife from the pocket and gave one blow to the deceased on his chest. The Apex Court while convicting the appellant for an offence under Section 304 Part II, sentenced him to five years rigorous imprisonment.

25. In **Sukbhir Singh v. State of Haryana** (2002) 3 SCC 327, the appellant caused two Bhala blows on the vital part of the body of the deceased that was sufficient in the ordinary course of nature to cause death. The High Court held that the appellant had acted in a cruel and unusual manner. Reversing the view taken by the High Court, Hon'ble Supreme Court held that all fatal injuries resulting in death cannot be termed as cruel or unusual for the purposes of Exception 4 of Section 300 IPC. In cases where after the injured had fallen down, the appellant did not inflict any further injury when he was in a helpless position, it may indicate that he had not acted in a cruel or unusual manner. The Court observed:

26. In **Sukhbir Singh Vs. State of Haryana**, (2002) 3 SCC 327, the appellant caused two Bhala blows on the vital part of the body of the deceased that was sufficient in the ordinary course of nature to cause death. The High Court held that the appellant had acted in a cruel and unusual manner. Reversing the view taken by the High Court this Court held that all fatal injuries resulting in death cannot be termed as cruel or unusual for the purposes of Exception 4 of Section 300 IPC. In cases where after the injured had fallen down, the appellant did not inflict any further injury when he was in a helpless position, it may indicate that he had not acted in a cruel or unusual manner. The Court observed:

“...All fatal injuries resulting in death cannot be termed as cruel or unusual for the purposes of not availing the benefit of Exception 4 of Section 300 IPC. After the injuries were inflicted and the injured had fallen down, the appellant is not shown to have inflicted any other injury upon his person when he was in a helpless position. It is proved that in the heat of passion upon a sudden quarrel followed by a fight, the accused who was armed with Bhala caused injuries at random and thus did not act in a cruel or unusual manner.

27. In **Shanmugam Vs. State of Tamil Nadu**, AIR 2003 SC 200, the accused stabbed the deceased over a petty quarrel with a spear in the abdomen and chest.

The victim died after a week of septicaemia. The accused was punished under Part-I of Section 304 IPC.

28. In **Ghapoo Yadav Vs. State of M.P.** (2003) 3 SCC 528, Hon'ble Supreme Court held that in a heat of passion there must be no time for the passions to cool down and that the parties had in that case before the Court worked themselves into a fury on account of the verbal altercation in the beginning. Apart from the incident being the result of a sudden quarrel without premeditation, the law requires that the offender should not have taken undue advantage or acted in a cruel or unusual manner to be able to claim the benefit of Exception 4 to Section 300 IPC. Whether or not the fight was sudden, was declared by the Court to be decided in the facts and circumstances of each case."

29. In **Pulicherla Nagaraju @ Nagaraja Reddy v. State of Andhra Pradesh** (2006) 11 SCC 444, the Hon'ble Court held thus:

"Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters - plucking of a fruit, straying of a cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such

cases. There may be no intention. There may be no pre-meditation. In fact, there may not even be criminality.”

30. In **Sudhakar Vs. State of U.P.**, (2012)8 SC 289, Hon’ble Supreme Court held as under:

“Going by the narration of the facts disclosed, there was nothing to suggest that there was any premeditation in the mind of the appellant to cause the death of the deceased. Taking into account the statement of P.W.1 that the deceased was under the influence of liquor and that whenever he was under the influence of liquor he used to throw the household articles and create a ruckus in the house was a factor which created a heat of passion in the appellant who as a father was not in a position to tolerate the behaviour of his son whose misbehaviour under the influence of liquor was the torment. Therefore, unmindful of the consequences, though not in a cruel manner the appellant inflicted a single blow which unfortunately caused severe damage to the vital organs resulting into the death of the deceased. In such circumstances, as rightly contended by learned counsel for the appellant, we are convinced that the offence alleged and as found proved against the appellant can be brought under the First

Part of Section 304 of IPC. Accordingly, while affirming the conviction of the appellant, we are only altering the same as falling under Section 304 Part I of IPC in place of Section 302 of IPC. As far as the sentence imposed on the appellant in as much as we reached at the conclusion that the conviction should fall under Section 304 Part I of IPC, taking note of the sentence already undergone, we find from the Imprisonment Certificate that the appellant is in jail from 12.07.2004 and he is 60 year old, P.W.1, who is the wife of the appellant, is left all alone and the appellant having suffered imprisonment for more than eight years, we hold that the sentence already undergone would be sufficient punishment apart from the fine imposed with the default sentence as per the judgment of the Trial Court and as affirmed by the High Court. The appeal stands partly allowed with the above modifications of the charge and the sentence imposed on the appellant.”

31. In the light of the above pronouncements of Hon'ble Apex Court, we shall now proceed to consider whether case against the accused-appellants falls within the ambit of Section 302 IPC or Section 304 IPC.

32. PW-1, who is the first informant of the case, in his deposition, has stated that along with the accused, his

disciple was also with him, whom he recognizes, but does not know his name. He further stated that his sister did not try to save him. There was no hand pump in the locality. This witness has further stated that *he received injuries while saving the deceased*. From the perusal of the statement of PW-1, Krishna, who is the first informant and injured in this case, it appears that accused-appellant had tried to inflict him knife blow, which missed and hit the deceased on his chest resulting in his death. The blow was not aimed at vital part of the body. Further, from the perusal of the first information report as well as the deposition of the witnesses, it is clear that the incident has occurred over a very trivial issue of filling of water from the hand pump and getting the hand pump muddy. There was no premeditation and act was done in a heat of passion. Further none of the witnesses, in their deposition have stated that accused-appellant after the injured had fallen down, had inflicted any further injury when the victim was in a helpless position, which is indicative of the fact that accused had not acted in a cruel or unusual manner. PW-1, Krishna, who is the first informant of the case has also mentioned in the FIR, that Ashok was working in the house of Haldhar, who himself came to the spot and became a party to the dispute. PW-2, Smt Meera Dasi, in her deposition has even went on to state that accused has come to the village a week ago and living in a rented house. Moreover, in the statements of witnesses, there is no whisper of any previous enmity of the deceased with the appellant.

33. The cumulative effect of all these circumstances, in our opinion, should entitle the appellants to the benefit of Exception 4 to Section 300 IPC.

34. In view of the aforesaid legal proposition enunciated by Hon'ble Supreme Court and looking at the nature of injuries sustained by the deceased and the injured person and the circumstances as enumerated above, the conclusion is irresistible that the death was caused by the acts of the accused-appellant done with the intention of causing such bodily injury as would likely to cause death and, therefore, the offence would squarely come within the ambit of Section 304 part-I IPC, instead of Section 302 IPC.

35. In view of the above conspectus, the conviction of the appellant Jagannath under Section 302 IPC cannot be sustained. This Court is reluctant in endorsing the life imprisonment. Accordingly, the conviction of the appellant under Section 302 IPC is set aside, instead, he is convicted under Section 304 Part-I IPC and sentenced to rigorous imprisonment of eight years. Conviction of the appellant under Section 323 IPC is affirmed. Appellant is stated to be in jail since 10.08.2012. He shall be released forthwith unless wanted in any other case provided he has completed the modified sentence of eight year.

36. Resultantly, the appeal is partly allowed with the aforesaid modification in the impugned judgement and

order dated 25.02.2016 passed by the Additional Sessions Judge, Court No. 03, Mathura.

37. Office is directed to transmit the lower court record along with a copy of this order to the court concerned for compliance.

(Devendra Singh-I,J.) (Chandra Dhari Singh,J.)

Dated: 28.01.2026

Ishrat