

Shankar Alias Kallu vs State Of Madhya Pradesh on 28 February, 1979

Equivalent citations: AIR1979SC1532, 1979CRILJ1135, (1979)3SCC318, 1979(11)UJ491(SC), AIR 1979 SUPREME COURT 1532, (1980) 3 MAHLR 25, 1979 UJ (SC) 806, 1979 CRILR(SC&MP) 423, (1979) CURLJ(CCR) 237, 1979 CRILR(SC&MP) 639, 1979 CRI APP R (SC) 298

Author: S. Murtaza Fazal Ali

Bench: O. Chinnappa Reddy, S. Murtaza Fazal Ali

JUDGMENT

S. Murtaza Fazal Ali, J.

1. In this appeal under Section 2(a) of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 the appellant has been convicted under Section 302 IPC and has been sentenced to imprisonment for life and is directed against the judgment of the Madhya Pradesh High Court. We have perused the judgment of the High Court. So far as the prosecution case is concerned, we are satisfied that the case has been fully proved by the prosecution. The main witnesses relied upon are PW 2 and 4. We have perused the evidence of these witnesses and we do not find any reason to disbelieve their evidence.

2. The only point which merits consideration is, as to what is the exact nature of the offence committed by the appellant. On the prosecution case itself, the occurrence took place suddenly without any premeditation while the deceased alongwith the accused and others had just finished their meals. In the circumstances, therefore, we do not think that the appellant had any intention of causing the particular injury that he caused to the deceased with a dagger on a vital part of the body viz. neck. There can however be no doubt that he must be deemed to have the knowledge that death may be caused by his act. In the circumstances, therefore, the case against the appellant squarely fails within the ambit of Section 304(1) IPC. We, therefore, alter the conviction of the appellant from one under Section 302 to that of under Section 304(II) and reduce the sentence from life imprisonment to seven years R.I. With this modification, the appeal is dismissed.