

State Of Karnataka vs Muddappa on 20 April, 1999

Equivalent citations: JT1999(10)SC221, 1999(II)OLR(SC)343, (1999)5SCC732, 1999 AIR SCW 4814, 1999 (5) SCC 650, (2000) SC CR R 319, 1999 (5) SCC 732, (1999) 9 SUPREME 415, (2000) 27 ALLCRIR 240, (1999) 2 ORISSA LR 343, (2000) 18 OCR 126, (1999) 4 CURCRIR 319, (2000) 40 ALLCRIC 314, (2000) 1 ALLCRILR 282, 1999 SCC (CRI) 1046, (1999) 10 JT 221 (SC), (1999) 10 JT 246 (SC), (1999) 113 ELT 375, (1999) 4 CRIMES 382, (1999) 85 ECR 838, (1999) 9 SUPREME 228, 1999 SCC (CRI) 1028, (2000) 41 ALLCRIC 764, (2000) SC CR R 318

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Bench: N. Santosh Hegde

ORDER

G.B. Pattanaik, J.

1. This appeal is directed against Accused 3 alone who was convicted by the learned Sessions Judge under Section 302 I.P.C. But, on appeal, the High Court set aside the conviction under Section 302 I.P.C. and instead, convicted him under Section 304 Part II I.P.C. For such conviction, the High Court also examined the circumstances under which the blow was inflicted by the accused on the deceased and, on consideration of the provisions of Section 360 of the CrPC as well as under Section 4 of the Probation of Offenders Act, 1958, the High Court, instead of sentencing him, directed to release the accused on admonition.

2. The learned Counsel for the appellant is not in a position to assail the acquittal of the accused under Section 302 I.P.C., but he vehemently contends that the Court did not bear in mind germane considerations for releasing the accused on probation after convicting him under Section 304 Part II I.P.C. Whether the benefit of the Probation of Offenders Act could be extended in any particular case depends upon the circumstances of that case. Admittedly, there is no statutory bar for application of the Act to an offence under Section 304 Part II where the maximum punishment is neither death nor imprisonment for life. In that view of the matter and on examining the impugned judgment of the High Court, we find that the Court did consider the relevant material and then came to the conclusion that the accused should be released on probation by applying the provisions of Section 4 of the Probation of Offenders Act. We see no infirmity with that order to be interfered with by this Court after this length of time, more so when nothing has been pointed out as to whether the

accused has, in any way, violated the terms and conditions of allowing him on probation.

3. We, accordingly, dismiss this appeal. Bail bonds of the respondent stand discharged.