

## **Birju vs State Of M.P on 14 February, 2014**

We are, in this case, concerned with the killing of a child aged one year who was in the arms of PW1, the grand-father, for which the accused was awarded death sentence by the trial court, which was affirmed by the High Court and these appeals have been preferred by the accused against the judgment of conviction and sentence awarded to him for the offences under [Section 302](#) of the Indian Penal Code, read with [Section 27](#) of the Arms Act, 1959.

2. The prosecution case, in short, is as follows:

PW1, the complainant was standing at the grocery shop of Kamal Bansal (PW2) on 13.12.2009 at about 8.15 PM for purchasing some goods. He was holding his grandson, Arman, aged one year in his arms. PW4, Jagdish, was also standing in front of the said shop. The accused-Birju, resident of the same locality, known as Rustam Ka Bagicha, came out there on a motorcycle. After parking the motorcycle, he went to Babulal and questioned him as to why he was standing there. Babulal replied that he had come to purchase some kirana. While so, the accused-appellant demanded Rs.100/- for consuming liquor. Babulal expressed his inability to give the money, on which, the accused abused him in the name of his mother and took out a country made pistol from his pocket and shot, which hit on the right temporal area of infant- Arman. Persons of the locality, which included Rakhi, daughter of the complainant, her aunt-in-law Sharda Bai and few other inhabitants of the area, reached the spot after hearing the sound. Son-in-law of the complainant, Jeevan, took Arman to the hospital and PW1 immediately reached the police station and lodged the first information report.

3. PW 12, the Station House Officer, reached the spot and prepared a spot map (Ext.P/2) and seized the blood stained shirt of complainant Babulal vide seizure memo (Ext.P/3). Empty cartridge, motorcycle and used bullet were seized from the spot vide seizure memo (Ext.P/6). Inquest report (Ext.P/8) was prepared on the dead body, which was then sent for post-mortem examination. PW10 Dr. A.K. Langewar conducted the post-mortem examination.