

## **Gulshan And Ors. vs State Of Punjab on 22 March, 1988**

**Equivalent citations: AIR1988SC2110, 1988(36)BLJR467, JT1988(2)SC21A, 1990SUPP(1)SCC682, AIR 1988 SUPREME COURT 2110, 1991 UP CRIR 298, 1991 SCC(CRI) 218, 1988 (2) JT 21.1, 1988 BLJR 467, 1990 SCC(SUPP) 682, 1988 UP CRIR 192, (1988) 1 ALLCRILR 1198, (1989) EASTCRIC 198, (1988) ALLCRIC 219, (1988) 2 CURLJ(CCR) 142**

**Bench: G.L. Oza, K. Jagannatha Shetty Shetty**

### **ORDER**

1. Heard learned Counsel for the parties.

2. Two appellants who have been convicted one Ashok Kumar was a boy of 17 years and the other Gulshan was a boy of 19 years at the time of the incident. So far as Ashok Kumar is concerned, he is alleged to have inflicted one blow with sharp edged weapon and it is alleged that the deceased died after six days of the injury. It is a penetrating wound according to the medical report. It also appears that the person Darshan Singh with whom there was trade rivalry, present and has been acquitted by the High Court. It also appears that there were some other injuries and admittedly they were neither fatal nor serious. In the light of these circumstances and also the fact that these appellants were released on bail by orders of this Court in August. 1978. about ten years back.

3. On the facts stated above in our opinion offence under Section 302 could not be attributed to them. Therefore, conviction of the two appellants under Section 302 read with Section 34 could not be maintained. They could only be convicted for an offence under Section 304 Part I and 304 Part I read with Section 34. In the circumstances of the case, in our opinion, sentence normally would be that of seven years. But in the circumstances of this case and looking to the age of the appellants and the time that has elapsed after they were released on bail, in our opinion, sentence already undergone will meet the ends of justice.

4. The appeal is, therefore, allowed to the extent indicated above.