

Vasanta vs State Of Maharashtra on 2 February, 1983

Equivalent citations: AIR1983SC361, 1983CRILJ693, 1983(1)CRIMES728(SC), 1983(1)SCALE871, 1984SUPP(1)SCC648, AIR 1983 SUPREME COURT 361(1), 1983 CRILR(SC MAH GUJ) 174, 1983 CRI APP R (SC) 184, 1983 SCC(CRI) 535, (1983) 1 SCJ 288, (1983) 1 CRIMES 728, (1983) MAD LJ(CRI) 465

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

ORDER

1. The appellant in the first instance was convicted by the trial court under Section 304/Part 2 IPC and sentenced to imprisonment for five years rigorous imprisonment. In the High Court appeals were filed both by the accused-appellant as also by the State. The High Court dismissed the appeal of the accused but allowed the appeal filed by the State and altered the conviction of the appellant from one under Section 304 Part 2 IPC to that under Section 302 IPC and sentenced the appellant to imprisonment for life. Hence this appeal before us. The facts have been narrated in the judgment of the High Court and it is not necessary to repeat the same. It appears that there was some verbal altercation as a result of which the deceased had caught the hand of the accused, whereupon the accused assaulted the deceased with a knife with very great force according to medical evidence. In view of the medical evidence and injuries received by the deceased the case squarely falls within four corners of Section 302 IPC. Mr. Lalit, however, submits that the case falls under Section 304 Part 2 IPC in view of serious altercations between the parties as held by the trial court. We are, however, unable to agree with this contention because there is nothing to show that the altercation was of such a serious nature which could cause sudden provocation. Secondly, the nature of injury, namely, the stab on the chest which resulted in the fracture of the 6th rib and injured the heart and the lung and which according to the doctor was given with great force showed that it was most cruel and therefore the case squarely falls under Section 302 IPC. We are in complete agreement with the High Court that the offence falls under Section 302 IPC and the appellant was therefore, rightly convicted by the High Court. The accused, who is now on bail will be taken into custody to serve the remaining part of the sentence. There is no merit in the appeal which is accordingly dismissed.