ITEM NO.31 COURT NO.12 SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 58152/2024

[Arising out of impugned final judgment and orders dated 16-09-2024 in CRA-D No. 445-DBA/2003 (O&M), CRA-S No. 84-SB/2003 & 19-09-2024 in CRA-D No. 445-DBA/2003 passed by the High Court of Punjab & Haryana at Chandigarh]

GURMAIL SINGH & ANR. Petitioner(s)

VERSUS

THE STATE OF PUNJAB Respondent(s)

(FOR ADMISSION and I.R. . IA No. 38002/2025 – C/DELAY IN REFILING / CURING THE DEFECTS. IA No. 38003/2025 - EXEMPTION FROM CUSTODY CERTIFICATE, IA No. 38005/2025 - EXEMPTION FROM FILING O.T. & IA No. 38004/2025 - EXEMPTION FROM FILING SEPARATE CERTIFICATE OF SURRENDER)

Date : 21-02-2025 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) Mr. Parinav Gupta, Adv.
Mr. Pardeep Gupta, Adv.
Mrs. Mansi Gupta, Adv.
Dr. Mrs. Vipin Gupta, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Heard learned counsel for the petitioners.

This is a case where the petitioners faced trial and were convicted and sentenced for 10 years RI & 7 years RI by the Sessions Judge at Barnala, Punjab, for the offences punishable under Sections 304 Part I read with 34 of the Indian Penal Code (for short “the IPC”) and Section 27 of the Arms Act respectively.

The case of the prosecution was that petitioner no.1 had fired at the deceased which resulted in his death and petitioner no.2 acted in prosecution of the common intention of the said unlawful act and exhorted to kill the deceased. There are eye witnesses to this effect. The guilt of accused is proved beyond reasonable doubt by the prosecution as to how the incident occurred. Nevertheless, the Trial Court convicted the petitioners under Sections 304 Part I read with 34 of the IPC and Section 27 of the Arms Act respectively and not under Section 302 of the IPC.

Consequently, the appeal filed by the petitioners against their conviction and sentence, before the High Court was dismissed and the appeal filed by the State was allowed and the finding on conviction was converted from Section 304 Part I of the IPC to Section 302 read with Section 34 of the IPC and sentenced to rigorous imprisonment for life. The High Court has examined each and every aspect of the matter and reasons have been assigned by the High Court while converting the findings with which we are in agreement.

It is our considered opinion that the High Court has committed no error in altering the petitioners' conviction under Section 304 Part I IPC to Section 302 IPC.

We are not convinced with the argument put forth by the learned counsel for petitioners that merely because death has occurred 16 days after the incident, and that too as a result of septicemia, criminal liability of the petitioners would lie under Section 304 Part I, as opposed to Section 302 IPC.

In *Prasad Pradhan* v. *State of Chhattisgarh* (2023) 11 SCC 320,

this Court has held that there cannot be any stereotypical assumption or formula that in all cases where death occurs after a lapse of time, the offence would be that of culpable homicide not amounting to murder. This court observed that every case has its own unique fact situation which needs to be considered.

We may also refer to *Khokhan* v. *State of Chhattisgarh* (2021) 3 SCC 365, where a similar contention was raised before this Court. In that case, the deceased was attacked in the abdomen by the accused and was taken to the hospital for treatment where he died after 3 days, on account of septicemia caused by injuries in the small intestine. Rejecting the argument that the accused would be guilty for the offence of culpable homicide not amounting to murder, this Court observed that there can be no absolute proposition of law that in all cases where the deceased died due to septicemia, the offence would fall under Section 304 Part I of the IPC.

Thus, we see no reason to interfere with the orders/judgment impugned passed by the High Court, in exercise of our jurisdiction under Article 136 of the Constitution of India.

The present petitions are, accordingly, dismissed along with pending application(s), if any.

(NIRMALA NEGI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
ASSISTANT REGISTRAR