

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1791 OF 2011

THE STATE OF MADHYA PRADESH

...APPELLANT(S)

VERSUS

SHABANA BI

...RESPONDENT(S)

J U D G M E N T

R. BANUMATHI, J.

1. Being aggrieved by the reversal of the conviction of the respondent-accused for the offence under section 302 IPC, the State of Madhya Pradesh has preferred this appeal.

2. The respondent-accused and the deceased Farida were neighbours. On the date of occurrence dated 19.04.2004 the respondent-accused is set to have poured kerosene on deceased Farida and set her ablaze. The respondent was tried for the offence under Section 302 IPC.

3. Based on the dying declaration (Ex.P-25) of the deceased recorded by the Executive Magistrate, Tehsildar (PW-13), the trial Court convicted the respondent under Section 302 IPC and sentenced her to undergo life imprisonment. In appeal, the High Court

pointed out that there is inconsistency between the first dying declaration recorded by Dr. Rakesh Chouksey (PW-9) to whom deceased stated that she has been burnt by her neighbour Sabana (respondent) and Noorafza who were mother and daughter, whereas before the Executive Magistrate, Tehsildar (PW-13) who has recorded the dying declaration of the deceased on 19.04.2004 to whom the deceased stated that she was set on fire by Sabana-respondent. The High Court has held that there are inconsistencies between the statement of deceased to Dr. Rakesh Chouksey (PW-9) and dying declaration (Ex.P-25) recorded by the Tehsildar (PW-13) and that benefit of doubt to be given to the respondent-accused. When there are two reasonable views and the High Court has adopted one such view which is a plausible one, we do not find any substantial ground warranting interference with the order of the acquittal.

4. The appeal is, accordingly, dismissed.

.....J.
[R. BANUMATHI]

.....J.
[VINEET SARAN]

NEW DELHI
29th AUGUST, 2018