

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPEAL NOS. 69-70 OF 2019**  
**(Arising out of S.L.P. (Crl.) Nos.4139-4140 of 2017)**

**Sudhir Kumar**

**..Appellant**

**Versus**

**State of Haryana and others**

**..Respondents**

**ORDER**

Leave granted.

2. These appeals are presented before us, questioning the judgment of the High Court of Punjab and Haryana, modifying the conviction of Surender @ Monu (Respondent No.2) from Section 302 of the Indian Penal Code (hereinafter 'IPC'), to that under Section 304 Part-I IPC and sentencing him to undergo rigorous imprisonment for ten years. These appeals have also questioned the reduction of sentence imposed on the other

accused to the period already undergone for offences punishable under Sections 323, 506, 148 read with 149 IPC.

3. The case of the prosecution in brief is that, an altercation took place between the complainant's mother, Ramrati and his aunt, Sarli at about 5.00 p.m. on 13.03.2008. On the same day, the accused started pelting bricks and stones upon the house of the complainant showing solidarity with Sarli. However, the complainant and other family members remained inside their house out of fear. On the next day, i.e., 14.03.2008, complainant's mother Ramrati went to fetch water at about 2.00 p.m., and at that time, Accused Nos. 2 to 9 were sitting there and they started threatening Ramrati with dire consequences. Subsequently, Accused Nos. 1 to 9 carrying deadly weapons like, *jellies* and iron rods approached the shop of the complainant's brother, Satish and threatened him also. Consequently, Satish fled from the scene. Thereafter, all the accused came to the house of the complainant and attacked the complainant's father, Balwan Singh. The complainant and his cousin were also injured in this altercation.

4. The Trial Court convicted Surender @ Monu (Respondent No. 2) son of Ved Parkash (Respondent No. 3) for the offences punishable under Sections 302, 148, 323, 506 read with 149 IPC and he was sentenced to undergo imprisonment for life for the offence punishable under Section 302 IPC. He was also sentenced to pay a fine of Rs.10,000/- and to undergo imprisonment for other offences also. All other accused were convicted by the Trial Court for the offences punishable under Sections 323, 506, 148 read with 149 IPC. They were sentenced to undergo imprisonment for six months for the offences punishable under Sections 323 and 506 read with Section 149 IPC. They were sentenced to undergo imprisonment for one year under Section 148 read with Section 149 IPC. Sentence of fine was also imposed on them. As mentioned supra, the High Court reduced the conviction of Surender @ Monu (Respondent No.2) for the offence punishable under Section 302 IPC to one punishable under Section 304 Part I IPC. As far as the other accused are concerned, the High Court maintained their conviction and but reduced the sentences to the period already undergone by them. Hence, these appeals are filed by the complainant.

5. Having heard the learned counsels for the parties, and having perused the records, we are not inclined to interfere with the order passed by the High Court so far as Respondent Nos. 3 to 10 are concerned, inasmuch as the High Court, while affirming the conviction of these accused, used its discretion judiciously to sentence these accused for the period already undergone in jail. So far as Respondent No.2, Surender @ Monu is concerned, there is enough material and medical evidence placed on record to infer that the death had occurred due to the greivous injuries inflicted by Respondent No.2 upon the deceased.

6. Both the courts below have concurrently concluded, and rightly so, that Surender @ Monu alone assaulted the deceased, particularly on his head, with the iron rod. There is no reason to disbelieve the said fact, nor the finding of fact. It is concluded by the courts below that due to the injuries sustained by the deceased on his head, dealt by Surender @ Monu, the deceased had lost his life. However, in our considered opinion, the High Court is not justified in modifying the conviction of the accused, Surender @ Monu to the offence under Section 304 Part I IPC inasmuch as the facts clearly reveal the intention on the part of

the said accused for committing the murder. The medical records reveal that eight injuries were found on the body of the deceased out of which three injuries were inflicted on his head. X-Ray and CT Scan of these injuries were taken. A wound was found on the right temporal region having length of 22 cms and it was sutured with 16 sutures. The injuries were found with the blood vessels cut and with profuse bleeding.

7. One of the doctors who conducted the post-mortem has narrated the two main head injuries found on the deceased as under:

“1. An inverted U shaped sutured wound of total length 22 cms with 16 sutures in place located at right temporal region.

2. Medial to injury 1 and 2 cms medial to it was a contusion of size 5x4 cms at mid of scalp at right parietal area. On deep dissection subcutaneous haematoma was present at site of injury 1 & 2 described extending in frontal and parietal region of both side. Extra-dural haematoma was present at operated and nearby region of size 10x10 cms irregular area. Two bony plates were in place with good apposition at operated site. Meninges were haemorrhagic at temporal- parietal region of both sides. Blood clots were present at fissures of brain at right temporal zone. Brain matter was disfigured by blood clots.”

8. Merely because the accused assaulted the deceased on his head once or twice only, it cannot be said that the offence committed by him is under Section 304 Part-I IPC inasmuch as the incident had not occurred on the spur of the moment. The act of Surrender @ Monu would not fall within any of the exceptions to Section 300 IPC.

9. Having regard to the weapons used, the situs of the injuries and the force with which the deceased was assaulted by the accused shows clear intention on the part of the said accused to commit murder. It would be beneficial to record the following observations made by this Court in paras 15 and 16 of the case *Dhupa Chamar and Others v. State of Bihar* (2002) 6 SCC 506, the facts of which are similar to the facts at hand:

“15. In view of the nature of injury whereby important blood vessels were ruptured inasmuch as aorta and artery were cut and when the doctor opined that death was caused as a result of severe haemorrhage and shock due to the rupture of great veins, undoubtedly, it can be reasonable inferred therefrom that such a solitary injury inflicted upon the deceased was sufficient to cause death in the ordinary course of nature.

16. The above circumstances would show that the accused intentionally inflicted the injury and the same would indicate such a state of mind of the appellant Dhupa Chamar that he aimed and

inflicted the injury with a deadly weapon. In the absence of evidence or reasonable explanation to show that this appellant did not intend to inflict injury by bhala in the chest with that degree of force sufficient to rupture important blood vessels and cutting of aorta and other artery, it would be perverse to conclude that he did not intend to inflict the injury that he did. When once the ingredient "intention is established then the offence would be murder as the intended injury was sufficient in the ordinary course of nature to cause death. Therefrom, the inevitable conclusion would be that Appellant 1 Dhupa Chamar has committed the offence of murder and not culpable homicide not amounting to murder. This being the position, we do not find that the High Court has committed any error in upholding conviction of Appellant 1 Dhupa Chamar under Section 302 of the Penal Code."

10. In view of the above, in our considered opinion, the judgment of the High Court modifying the conviction of Respondent No. 2 under Section 304 Part-I is liable to be set aside. Accordingly, the appeal questioning the conviction of the Surender @ Monu for the offence under Section 304 Part-I is allowed. The accused Surender @ Monu is convicted for the offence under Section 302 IPC and is sentenced to undergo imprisonment for life and also to pay a fine of Rs. 2,00,000/-. If deposited, the amount is to be made over to the legal representatives of the deceased as compensation. If the fine is not

paid, the accused Surender @ Monu will undergo further rigorous imprisonment for three years.

.....J.  
(N.V. RAMANA)

.....J.  
(MOHAN M. SHANTANAGOUDAR)

New Delhi,  
January 14, 2019