

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No(s). 1576 OF 2018
(Arising out of SLP(CrI.)No.9264 of 2018)

SUBHASH GANGADHAR JADHAV

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

J U D G M E N T

BANUMATHI, J.:

(1) Leave granted.

(2) This appeal arises out of judgment and order dated 5th March, 2015 passed by the High Court of Judicature at Bombay in Criminal Appeal NO.1252 of 2007 in and by which the High Court affirmed the conviction of the appellant-accused under Section 302 I.P.C. and sentenced the appellant-accused to undergo life imprisonment.

(3) By order dated 22nd October, 2018, this Court issued notice limited to the nature of offence and the quantum of punishment. Case of the prosecution is that the deceased-Kanhu Rao and the appellant-accused, Subhash Gangadhar Jadhav, were employees of Symboisis Sampro Syntheline Company at MIDC, Village Gonde. At the night of 2nd May, 2005, while the accused-Subhash Gangadhar

Jadhav was working in the night shift, the deceased-Kanhu Rao served the tea to those working in the night shift and at that time there was exchange of hot words between the appellant-accused and the deceased. During which time, the appellant-accused inflicted injuries on the deceased-Kanhu Rao with wooden rod of the axe. The appellant-inflicted four to five injuries on the person of the deceased due to which the deceased-Kanhu Rao died on the spot.

(4) We have heard Mr. Shikhil Suri, learned counsel appearing for the appellant and Ms. Deepa M. Kulkarni, learned counsel appearing for the respondent-State, and also perused the impugned judgment and the evidence/materials on record.

(5) The Contention of learned counsel for the appellant-accused is that there was no premeditation on the part of the appellant and while the appellant was working in the night shift of the fateful day, the deceased-Kanhu Rao served the tea to the appellant and also to others and that while there was exchange of words between them, the appellant has inflicted injuries upon the deceased-Kanhu Rao all of a sudden. It was submitted that there was no premeditation or intention of committing the murder of the deceased-Kanhu Rao by the appellant.

(6) Considering the facts and circumstances of the case and also that there was no premeditation of the appellant-accused in inflicting injuries on the deceased-Kanhu Rao, the conviction of the appellant-accused under Section 302 I.P.C. is

modified to Section 304 Part-I I.P.C. and the sentence awarded to the appellant-accused is reduced to the period already undergone by him.

(7) The appeal is partly allowed and the appellant-accused is ordered to be released forthwith unless required in any other case.

.....J.
(R. BANUMATHI)

.....J.
(INDIRA BANERJEE)

NEW DELHI,
DECEMBER 7, 2018.