

Mohd. Aslam

Vs

State of Uttar Pradesh

Criminal Appeal No. 32 Of 1974

(D. G. Palekar, K. K. Mathew, S. N. Dwivedi JJ)

12.02.1974

JUDGMENT

PALEKAR, J. -

1. In this appeal which came before us by special leave we are concerned only with the sentence, since the special leave was limited to the question of sentence.
2. The present appellant Mohd. Aslam s/o Faiyaz Hussain and a friend of his Saidullah were both convicted by the learned Sessions Judge of Pilibhit for offenses under Section 302 and Section 302 r/w Section 34, I.P.C., and while the appellant Mohd. Aslam was sentenced to death, Saidullah was sentenced to life imprisonment. Their appeal was dismissed by the High Court at Allahabad and the sentence of death passed on the appellant Mohd. Aslam was confirmed.
3. So far as the conviction of the appellant is concerned we do not think there can be any objection to the same. The appellant's conviction under Section 302, I.P.C., for the murder of his brother-in-law Manzoor Hussain was correct and we do not see any good ground for interference. The only question with which we propose to deal is the sentence imposed on him.
4. The appellant was hardly 19 or 20 years old when he committed the offence. The learned Sessions Judge duly noted that the appellant was young but was of the view that his "age would not come into consideration" and for that he thought "there was well established law. The High Court, in its turn, thought that there were no extenuating circumstances. It appears to us that both the Courts have adopted a very mechanical approach. The deceased Manzoor Hussain had married the appellant's sister Iran Begum about 2 years prior to the offence. Within a year after the marriage, Manzoor Hussain left his wife. She apparently came and lived with her parents. The whole family, including the appellant, appears to have been very much exercised over this affair. But they must have thought that it would be possible some day for Iran Begum to go back to her husband. But four months before the offence, Manzoor Hussain made this impossible by marrying another girl. This led to criminal activities between both the families and complaints and cross-complaints were filed. A chapter case was also started. In this surcharged atmosphere it appears the appellant who was an impressionable young man must have been emotionally affected and that is why he and his friend Saidullah, also a young lad, decided to murder him. Both of them waylaid the deceased in the evening and while Saidullah caught him from behind the appellant Mohd. Aslam stabbed him with a knife in the chest. There was only one stab wound and that resulted in death. It appears to us that the appellant must have been influenced by the general atmosphere in the family which was hostile to the deceased, and having lost his head committed this crime. We think that the High Court would have been well advised, having regard to the age of the appellant and also the circumstances of the

crime, to have reduced the sentence to one of life imprisonment. Confirming the conviction under Section 302 we set aside the sentence of death imposed on the appellant and sentence him to life imprisonment.

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