

Nachittar Singh

Vs

State of Uttar Pradesh

Criminal Appeal No. 605 of 1980

(R. S. Sarkaria, V. D. Tulzapurkar JJ)

08.08.1980

ORDER

1. Special leave granted.

2. We have heard counsel on both sides and have perused the medical evidence rendered by Dr. E. S. Moser (PW 2) and Dr. C. S. Naik (PW 11). All that Dr. Naik stated was that any of the two injuries found on the person of the deceased "could" cause death, and Dr. Naik who conducted the autopsy only stated that the cause of the death of the deceased was due to peritonitis resulting in irreversible secondary shock. Thus, the medical witnesses (PWs 2 and 11) did not categorically opine that these injuries found on the deceased, collectively or individually, were sufficient to cause death in the ordinary course of nature. All that the medical evidence amounts to, is that these injuries found on the deceased were likely to cause death. We, therefore, think that from the facts established by evidence, the only reasonable inference that can be drawn is that Nachittar Singh caused the injuries to the deceased only with the knowledge that he was thereby likely to cause the death of he deceased. Accordingly, we alter his conviction from one under Section 302 to that under Section 304 Part I, Penal Code, and reduce his sentence to five years rigorous imprisonment only.

3. Nachittar Singh's appeal is thus partly allowed to the extent indicated above.

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