

Rajua Alias Rajju and Others

Vs

State of Madhya Pradesh

Criminal Appeal No. 316 of 1987

(A. P. Sen, B. C. Ray JJ)

ORDER

1. In this special leave petition, notice was confined to the question of sentence. We have heard learned counsel for the parties on that question. The petitioners have been found guilty by the High Court of Madhya Pradesh of having committed culpable homicide not amounting to murder in furtherance of the common object of an unlawful assembly which is an offence punishable under Section 304 Part II of the Indian Penal Code, 1860 and each sentenced to undergo rigorous imprisonment for seven years, apart from offences punishable under Sections 147, 323 and 325 read with Section 149 of the Indian Penal Code. Looking to the manner in which the petitioners committed the murderous assault on the deceased for which there was no lawful justification, as found by the High Court and having regard to the fact that the High Court has convicted them for an offence punishable under Section 304 Part II and not under Part I, we alter the sentence of rigorous imprisonment for seven years to rigorous imprisonment for a period of five years.

2. We accordingly grant leave to appeal and while maintaining the conviction of the appellants under Section 304 Part II of the Indian Penal Code, reduce the sentence of rigorous imprisonment for seven years as awarded by the High Court, and direct that the appellants shall undergo rigorous imprisonment for a period of five years.

3. Subject to this modification in the sentence, the appeal fails and is dismissed.

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