

Manibhai Vithalbhai Machhi

Vs

State of Gujarat

Criminal Appeal No. 70 of 1988

(M.P. Thakkar, K.N. Singh JJ)

01.02.1988

ORDER

1. Special leave granted. Heard both the sides.
2. The appellant is present in court in person. Having considered the facts and circumstances of the case, we are of the view that the offence would fall under Section 304 Part II, IPC and not under Section 302 IPC. Admittedly, the appellant had no motive to kill the victim. The appellant came running to the scene of the offence on hearing shouts and therefore, there was no question of his having entertained any intention to commit the murder of the victim. It was not a premeditated attack. Only one blow was given. It is not unreasonable to take the view that it happened to land on the victim's head. Taking into consideration all the relevant circumstances, the appeal deserves to be allowed partly to the extent that the conviction shall stand converted from one under Section 302 IPC to one under Section 304, Part II IPC. We order accordingly. Consequently we reduce the sentence from one of imprisonment for life to one of RI for five years. The order passed by the High Court is confirmed subject to modification to the aforesaid extent. The appeal is partly allowed and is disposed of in the aforesaid terms. No costs.

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