

Hari Shankar

Vs

State of Rajasthan

Criminal Appeal No. 523 of 1998

(G. T. Nanavati, S. P. Kurdukar JJ)

20.04.1998

ORDER

1. Leave granted. Heard learned counsel for the parties.
2. Only question that we have to consider in this appeal is what offence can be said to have been committed by the appellant on the basis of the facts found by the High Court. It has been held that while the appellant, deceased Bheem Singh and one Shah Megan were taking tea in the tea-club of the Air Force, 32 Wing (MT Section), an exchange of words took place between the appellant and the deceased on account of the demand made by the appellant for returning Rs 50,000 which he had advanced to the deceased. The appellant became angry and picked up the burning kerosene wick-stove and threw it on the deceased. Kerosene from the stove spilled over the clothes of the deceased and as the burning wicks came in contact with his clothes they caught fire. The deceased ultimately died as a result of the burns received by him.
3. What was submitted by the learned counsel for the appellant was that the appellant had no enmity with the deceased. He had no intention to kill the deceased as by killing him he could not have recovered the amount of Rs 50,000 which he had advanced to the deceased. He further submitted that the quarrel between the two took place all of a sudden and in the heat of the moment the appellant had picked the stove and had thrown it towards the deceased. He, therefore, submitted that it was merely a rash and negligent act on the part of the appellant. We cannot agree with the submission of the learned counsel. Since the appellant had thrown a burning stove on the deceased, he would have known that his act was likely to cause burns resulting in death. In view of the facts and circumstances of the case, he can be said to have committed an offence under Section 304 Part II IPC.
4. We, therefore, allow this appeal partly, alter the conviction of the appellant from under Section 302 to Section 304 Part II IPC and reduce the sentence of imprisonment for life to rigorous imprisonment for five years.