

SUPREME COURT OF INDIA

Iqbal

Vs.

State of Karnataka

Crl.A.No.1505 of 2007

(B.N. Agrawal, G.S. Singhvi and Aftab Alam JJ.)

15.10.2008

ORDER

1. Heard learned counsel for the parties.

2. The appellants, along with accused Babu [A-6], were convicted under Section 302 read with Section 34 of the *Indian Penal Code, 1860* [for short, I.P.C.] and sentenced to undergo imprisonment for life and to pay fine of Rupees five thousand each; in default, to undergo further simple imprisonment for a period of one year.

3. When the matter was taken in appeal, High Court, while acquitting Babu [A-6] of the charge, converted the conviction of the appellants from Section 302 read with Section 34 I.P.C. into one under Section 304 Part-I I.P.C. and sentenced them to undergo rigorous imprisonment for a period of ten years and to pay fine of Rupees twenty thousand each; in default, to undergo further simple imprisonment for a period of one year. Hence, this appeal by special leave.

4. The prosecution case has been supported by four eye-witnesses, Jabeer Pasha [P.W.2], Anwar [P.W.3], Saleem [P.W.4] and Amjad [P.W.5], out of whom P.W.2 is the informant himself and is an injured witness. All the eye-witnesses have consistently supported the prosecution case and their evidence is corroborated by medical evidence. In our view, High Court was quite justified in convicting the appellants under Section 304 Part-I I.P.C.

5. Learned counsel appearing on behalf of the appellants submitted that these appellants have remained in custody for a period of about seven years; as such, the sentence of imprisonment awarded against them should be reduced to the period already undergone by them. In the facts and circumstances of the case, we feel it will be just and expedient to accede to the prayer.

6. Accordingly, the appeal is allowed in-part and, while upholding the conviction of the appellants, sentence of imprisonment awarded against them is reduced to the period already undergone by them.

7. The appellants, who are in custody, are directed to be released forthwith, if not required in connection with any other case.