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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.A. 463/2015 & CrI. M. (B) 3326/2015

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Judgment delivered on 29th May, 2015

CHANDER PAL

..... **Appellant**

Through : Mr. Jivesh Tiwari, Advocate

Versus

STATE

..... **Respondent**

Through : Mr. Feroz Khan Ghazi, APP for the State

CORAM :

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J.

1. Present appeal arise out of a judgment dated 13.02.2015 and order on sentence dated 23.02.2015 passed by the learned Additional Sessions Judge in Session Case No. 145/10, by virtue of which the appellant has been convicted under Sections 302/201 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC"), and sentenced to undergo Imprisonment for life and to pay a fine of Rs. 10,000/- for the offence punishable under Section 302 of the Indian Penal Code, and in default of the payment of fine to further undergo Simple Imprisonment for a period of three months; The appellant was further sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 2,000/- for the offence punishable under Section 201 of the Indian Penal Code, and in default of the payment of fine to further undergo Simple Imprisonment for a period of one month.

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2. The brief facts of the case as noticed by the learned Trial Court are that :

1. Deceased Kishan Pal, alongwith his wife Sunita and children was residing at Farm Khasra No. 523/2, Neb Sarai, New Delhi and was plying a goods-rickshaw. Accused Chander Pal, being elder brother of deceased Kishan Pal, was working as a Security Guard at K-210, Sainik Farm, was also residing with deceased Kishan Pal and his family members at Plot Khasra No. 523/2, Neb Sarai, New Delhi. Accused Chander Pal was unmarried. As per the case of the prosecution, accused Chander Pal and Smt. Sunita, wife of deceased Kishan Pal had developed illicit relations, a fact which was known to deceased Kishan Pal, as well as other family members of the accused and the deceased. It is also the case of the prosecution that deceased Kishan Pal, did not like the relations between accused Chander Pal and his wife Sunita, and that was the cause of the quarrel between the deceased Kishan Pal and his wife Smt. Sunita. On 11.05.2008, deceased Kishan Pal after his work was over, returned to house in the evening, drunk, under influence of liquor, had a quarrel with his wife Smt. Sunita and had also beaten up her. After a while, the deceased Kishan Pal went away, consumed more liquor and returned to his place around 11.00 PM in the night and by that time, accused Chander Pal had also come to the house, after finishing his duty. On reaching his house, around 11.00 PM of 11.05.2008 deceased Kishan Pal again started abusing his wife Smt. Sunita and started beating her with his belt. Because of same, Smt. Sunita received injuries on her arms and legs and went inside weeping. Accused Chander Pal was finding it difficult to bear the condition of Smt. Sunita and in a fit of rage, he gave spade blows, to the deceased Kishan Pal on his neck, because of which he died. After Kishan Pal was dead, accused Chander Pal dug a pit inside the farm itself, by the side of the wall, and buried the body of deceased Kishan Pal there. It is further case of the

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prosecution that on 15.05.2008, after taking two days leave from his job, accused Chander Pal reached his native village Nangla Lahori, P.S. Patiali, District Etta (UP) along with Smt. Sunita, wife of deceased Kishan Pal and their children and informed his brothers there in the village and other family members that deceased Kishan Pal had come from Delhi on 11.05.2008, telling them that he was going to village 'Garia' but his whereabouts were not known. On 18.05.2008, accused Chander Pal, left his native village, telling that he was going to Delhi to get an FIR registered, in regard to missing of his brother Kishan Pal. Smt. Sunita remained behind in their native village, but when she was pressurised by other brothers of both accused Chander Pal and deceased Kishan Pal, namely, Parvesh Singh, Ram Prakash and their mother Smt. Sunita disclosed the fact about murdering of Kishan Pal and his dead body was buried at plot Khasra No. 523/2, Neb Sarai, New Delhi. One more brother of the deceased and the accused, namely Ishwar Dayal was also working in Sainik Farms, New Delhi. Family members of the deceased reached Delhi on 20.05.2008 along with Smt. Sunita.

An information was given to officials of Police Station Mehrauli on 21.05.2008, the information was recorded vide DD No. 19A and SI Dinesh Chandra alongwith other Police officials had gone to Plot Khasra No. 523/2, Neb Sarai behind St. Marry School, Sainik Farm, New Delhi where PW10 Smt. Sunita and other family members were present. The place was pointed out by Smt. Sunita Devi in Khasra No. 523/2; Neb Sarai, New Delhi. Digging was done and dead body of the deceased Kishan Pal was recovered in the presence of SDM. Videography of the place was done in the presence of the family members of the deceased.

It is also the case of the prosecution that after killing Kishan Pal, accused Chander Pal had threatened Smt. Sunita, wife of deceased Kishan Pal not to disclose the

fact to anyone else, otherwise she would also be killed by him.

2. Charge sheet for the offences punishable under Section 302/201/506 of the Indian Penal Code was filed against accused Chander Pal with the allegations that he committed murder of his brother Kishan Pal and buried his dead body in a plot, Khasra No. 523/2, Neb Sarai, behind St. Mary School, Sainik farm, New Delhi, during the intervening night of 11/12.05.2008.

3. Charge for the offences punishable under Section 302/201/506 of the Indian Penal Code was framed against accused Chander Pal to which he pleaded not guilty and claimed trial.

3. In order to bring home the guilt of the appellant the prosecution has examined 34 witnesses. The appellant was examined under Section 313 of Code of Criminal Procedure wherein the appellant denied the allegations, stating that he has been falsely implicated. No witness was examined by appellant in his defence.
4. The learned Trial Court, after scrutiny of the evidence, found that the prosecution has been able to prove the case against the appellant and accordingly convicted him for the offences and imposed the sentence as has been stated hereinabove.
5. While arguing the appeal, learned counsel for the appellant Mr. Jivesh Tiwari contended that the appellant has been falsely implicated in this case, the judgment passed by the learned Trial Court is contrary to the facts and law and is based on surmises and conjectures, the trial Court has completely lost track of the settled position of law, thus it is liable to be set aside.

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6. Mr. Jivesh Tiwari, learned counsel appearing on behalf of the appellant further contended that the trial Court has failed to consider that not a single eye witness has supported the case of the prosecution and in the absence of any evidence against the appellant the judgment and order of conviction is liable to be reversed.
 7. Mr. Jivesh Tiwari, learned counsel appearing on behalf of the appellant also contended that the circumstantial evidence in this case has not proved the guilt of the appellant.
 8. Learned counsel further submits that there is no motive which has been established which would justify the appellant killing his own brother.
 9. In the alternate, counsel for the appellant has submitted that by no stretch of imagination case under Section 302 of the Indian Penal Code would be made out against the appellant. The incident took place at the spur of the moment, there was no premeditation and thus the appellant should be convicted under Section 304 Part-II of the Indian Penal Code on the period already undergone.
 10. On the other hand, Mr. Feroz Khan Ghazi, learned counsel for the State submits that the prosecution has been able to establish its case beyond any shadow of doubt. Learned APP for the State also submits that the testimony of the witnesses stand duly corroborated with the medical evidence and the doctor has opined that the death could have been caused with the spade which was recovered near the spot.
 11. Learned APP for the State also submits that even if the case of the prosecution is not supported by the prosecution witnesses who

were the relatives of the deceased, the conviction can be based on the other substantive evidence which are on record. Learned APP for the State further argued that in the present matter there are testimonies of SDM, concerned doctor and other formal witnesses which proves the case of the prosecution beyond reasonable doubt.

12. We have heard learned counsel for the appellant and also heard learned APP for the State and considered their rival submissions. The counsel has also taken us through the record of the trial court and the testimony of the witnesses.
13. The case as set down by the prosecution is that the deceased Kishan Pal was residing at farm Khasra No. 523/2, Neb Sarai, New Delhi along with his family and his brother Chander Pal (appellant herein who was unmarried). Chander Pal and Smt. Sunita developed illicit relations which came to the knowledge of deceased Kishan Pal. On the fateful day i.e. on 11.05.2008 around 11:00 P.M. deceased started abusing and beating his wife. Wife of the deceased received injuries on her body and started weeping. In a fit of rage Chander Pal (appellant) gave four spade blows to the deceased on his vital parts which led to his death. As per the prosecution appellant Chander Pal dug a pit inside the farm house and buried the body of the deceased to screen himself from the legal consequences.
14. Before dealing with the arguments of both the parties it is relevant to peruse the testimony of the material witnesses.
15. PW29 Sh. Sravan Bagaria (SDM) deposed that on 21.05.2008 he had received an information from Inspector Balram, Police Station Mehrauli that a dead body was to be exhumed from the plot Khasra

No. 523/2, Neb Sarai, New Delhi. PW29 further deposed that he reached the place at about 6.00 PM on the same day and after preliminary examination of the area, he ordered the exhumation of the dead body and the digging work started at about 6.15 PM. PW29 also deposed that all the brothers of the deceased were present along with other family members, photographs as well as videography of the digging and proceedings were recorded.

16. PW33 Inspector Vinod Pal, has testified that on 21.05.2008 he was posted as In charge Mobile Crime Team, South District and on the directions of South Delhi, Control Room, he along with the team comprising of HC Raj Kumar (Fingerprints Proficient) and Ct. Girdhar (Photographer) visited the spot of the incident where the then SHO/Inspector Balram along with the police officials of P.S Mehrauli, were found present. PW33 also deposed that the public persons had also gathered at the spot and after a while, SDM, Hauz Khas also arrived there. He further deposed that a male dead body in decomposed condition was dug out and the photographs of the body as well as the spot were clicked. Injury marks on the neck of the dead body were also noticed. PW33 next deposed that he prepared scene of crime report bearing no 431/08 which is Ex. PW32/M.
17. PW34 HC Jaiveer Singh testified that he accompanied SI Dinesh Kumar to Khasra No. 523/2, Neb Sarai, New Delhi on 21.05.2008 and also testified on the point of digging out of the dead body. PW34 also deposed that a private tempo was arranged and he took the dead body to the AIIMS mortuary and deposited the same for preservation.

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18. PW26 Dr. Susheel Sharma, Senior resident, Department of Forensic Medicines at AIIMS Hospital, New Delhi testified that on 22.05.2008 he along with Dr. T. Millo had conducted the post-mortem examination of the deceased Kishan Pal who was a 35 year old male. PW26 deposed that a decomposed corpse had been brought by the police for post-mortem examination which was mud stained. With regard to dead body PW26 deposed that rigor-mortis was passed off, post-mortem staining was not present and the corpse was in an advance stage of decomposition, skin and hair were easily removable, bones were exposed but foul smell was not present. PW26 also deposed that the following ante-mortem injuries were found present during post-mortem examination:

- i. A stab wound measuring 1.7 x 2 cm present at front of middle of the neck, obliquely placed with outer/upper angle towards left side situated 5.5 cm below to chin and 6 cm above to sterna angle. A track was established directed upward, backward and towards left passing through thyroid cartilage, through trachea, through oesophagus and terminate in prevertebral fascia of cervical vertebra associated with haematoma. Total length of track was 4 cm.
- ii. A laceration 1.5 x 1 cm present at right aspect of occipital region of scalp situated 2 cm from midline and 4 cm above from occipital protuberance associated with hematoma.

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- iii. A laceration 4 x 2.5 cm present at occipital region of scalp associated with hematoma situated at middle and 3 cm above from occipital protuberance.
 - iv. A laceration 10 x 4 cm bone deep present at left temporal region of scalp of scalp, 6 cm from left mastoid tip and 4.5 cm from midline associated with hematoma.

As per the testimony of PW26 the cause of death was shock and haemorrhage consequent upon injury No. 1 which is sufficient to cause death in ordinary course of nature. PW26 also testified that he had examined the weapon of offence and after examining the post mortem report and the spade he opined that injuries No. 1 to 4 could be possible with the given weapon.

19. The last submission of the learned Counsel for the appellant is that in any event, the present case does not fall within Section 302 of the Indian Penal Code and the appellant be given benefit of Section 304 of the Indian Penal Code. In order to consider the contention of learned Counsel for the appellant, it would be fruitful to have a look at the law relating to culpable homicide and murder.

Section 299 of IPC Culpable homicide.—Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Section 300 of IPC Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or

Secondly- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or

Thirdly- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, or

Fourthly- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

20. To understand what constitutes Culpable homicide and Murder it will be useful to refer to the following judgments passed by the Apex Court:

In the case of *Chacko @ Aniyam Kunju and Ors. Vs. State of Kerala : (2004) 12 SCC 269*, it was held by Hon'ble Supreme Court that :

All "murder" is "culpable homicide" but not vice versa. Speaking generally, "culpable homicide" sans "special characteristics of murder is culpable homicide not amounting to murder". For the purpose of fixing punishment, proportionate to the gravity of the generic offence, IPC practically recognizes three degrees of culpable homicide. The first is, what may be called, "culpable homicide of the first degree". This is the gravest

form of culpable homicide, which is defined in Section 300 as "murder". The second may be termed as "culpable homicide of the second degree". This is punishable under the first part of Section 304. Then, there is "culpable homicide of the third degree". This is the lowest type

10. The academic of culpable homicide and the punishment provided for it is also the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of Section 304. Distinction between "murder" and "culpable homicide not amounting to murder" has always vexed the courts. The confusion is caused, if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of Sections 299 and 300. The following comparative table will be helpful in appreciating the points of distinction between the two offences:

1. Clause (b) of Section 299 corresponds with Clauses (2) and (3) of Section 300. The distinguishing feature of the mens rea requisite under Clause (2) is the knowledge possessed by the offender regarding the particular victim being in such a peculiar condition or state of health that the internal harm caused to him is likely to be fatal, notwithstanding the fact that such harm would not in the ordinary way of nature be sufficient to cause death of a person in normal health or condition. It is noteworthy that the "intention to cause death" is not an essential requirement of Clause (2). Only the intention of causing the bodily injury coupled with the offender's knowledge of the likelihood of such injury causing the death of the particular

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victim is sufficient to bring the killing within the ambit of this clause.

2. Clause (b) of Section 299 does not postulate any such knowledge on the part of the offender. Instances of cases falling under Clause (2) of Section 300 can be where the assailant causes death by a fist-blow intentionally given knowing that the victim is suffering from an enlarged liver, or enlarged spleen or diseased heart and such blow is likely to cause death of that particular person as a result of the rupture of the liver, or spleen or the failure of the heart, as the case may be. If the assailant had no such knowledge about the disease or special frailty of the victim, nor an intention to cause death or bodily injury sufficient in the ordinary course of nature to cause death, the offence will not be murder, even if the injury which caused the death, was intentionally given. In Clause (3) of Section 300, instead of the words "likely to cause death" occurring in the corresponding Clause (b) of Section 299, the words "sufficient in the ordinary course of nature" have been used. Obviously, the distinction lies between a bodily injury likely to cause death and a bodily injury sufficient in the ordinary course of nature to cause death. The distinction is fine but real and if overlooked, may result in miscarriage of justice. The difference between Clause (b) of Section 299 and Clause (3) of Section 300 is one of degree of probability of death resulting from the intended bodily injury. To put it more broadly, it is the degree of probability of death which determines whether a culpable homicide is of the gravest, medium or the lowest degree. The word "likely" in Clause (b) of Section 299 conveys the sense of probability as distinguished from a mere possibility. The words "bodily injury ... sufficient in the ordinary course of nature to cause death" mean that death will be the "most probable" result

of the injury, having regard to the ordinary course of nature

In another case of *Pulicherla Nagaraju @ Nagaraja Reddy v. State of Andhra Pradesh (2006) 11 SCC 444*, the Hon'ble Supreme Court enumerated some of the circumstances relevant to find out whether there was any intention to cause death on the part of the accused. The Court observed:

"...Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters - plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable Under Section 302, are not converted into offences punishable Under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable Under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of

force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any pre-meditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention..."

Similarly in *Ghapoo Yadav and Ors. v. State of M.P. (2003) 3 SCC 528* and *Sukbhir Singh v. State of Haryana (2002) 3 SCC 327*, it was observed that :

...After the injuries were inflicted the injured has fallen down, but there is no material to show that thereafter any injury was inflicted when he was in a helpless condition. The assaults were made at random. Even the previous altercations were verbal and not physical. It is not the case of the prosecution that the accused Appellants had come prepared and armed for attacking the deceased....

21. In view of the aforesaid dictum, let us now examine the present case in the light of abovementioned settled law. We may say that the appellant gave four blows on the vital part of the deceased, the incident took place without any premeditation, at the spur of the moment and the appellant did not act in a cruel or unusual manner

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so the case is clearly covered under **Section 304 of the IPC** which is defined as under-

Whoever commits culpable homicide not amounting to murder shall be punished with 1[imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

22. **Section 304** of the Indian Penal Code consists of two parts, the first dealing with second degree culpable homicide and the second dealing with third degree culpable homicide as has been noted above. The distinction between Section 304 Part I and Part II has been drawn by the Hon'ble Supreme Court in *Alister Anthony Pareira v. State of Maharashtra (2012) 2 SCC 648*, in the following words:

.....For punishment Under Section 304 Part I, the prosecution must prove: the death of the person in question; that such death was caused by the act of the accused and that the accused intended by such act to cause death or cause such bodily injury as was likely to cause death. As regards punishment for Section 304 Part II, the prosecution has to prove the death of the person in question; that such death was caused by the act of the accused and that he knew that such act of his was likely to cause death...

23. In the case of *Vijay Ramkrishan Gaikwas V. State of Maharashtra* (2012) 11 SCC 592, it was observed that

.... The occurrence thus has the features of an incident in which an injury is inflicted in a sudden fight without premeditation in the heat of passion upon a sudden quarrel within the contemplation of exception 4 to Section 300 of murder as defined in the said section. It is true that only one injury was caused to the deceased but the same is not conclusive by itself, for even a single injury can in a given case constitute murder, having regard to the weapon used and the part of the body chosen for inflicting the injury. The legal position in this regard is well settled by the decision of this Court in *Bavisetti Kameshwara Rao alias Babai v. State of Andhra Pradesh : 2008 (15) SCC 725*:

(Para 13) It is seen that where in the murder case there only a single injury is, there is always a tendency to advance an argument that the offence would invariably be covered under Section 304 Part II Indian Penal Code. The nature of offence where there is a single injury could not be decided merely on the basis of the single injury and thus in a mechanical fashion. The nature of the offence would certainly depend upon the other attendant circumstances which would help the court to find out definitely about the intention on the part of the accused. Such attendant circumstances could be very many, they being (i) whether the act was premeditated; (ii) the nature of weapon used; (iii) the nature of assault on the accused. This is certainly not an exhaustive list and every case has to necessarily depend upon the evidence available. As regards the user of screwdriver, the Learned Counsel urged that it was only an accidental use on the spur of the moment and, therefore, there

could be no intention to either cause death or cause such bodily injury as would be sufficient to cause death. Merely because the screwdriver was a usual tool used by the accused in his business, it could not be as if its user would be innocuous.

In another case of **Jai Prakash v. State (Delhi Administration)**, 1991(2) SCC 32: the Apex Court held as under:

*"...when a person commits an act, he is presumed to expect the natural consequences. But from the mere fact that the injury caused is sufficient in the ordinary course of nature to cause death, it does not necessarily follow that the offender intended to cause the injury of that nature. However, the presumption arises that he intended to cause that particular injury. In such a situation the court has to ascertain whether the facts and circumstances in the case are such as to rebut the presumption and such facts and circumstances cannot be laid down in an abstract rule and they will vary from case to case. However, as pointed out in **Virsa Singh** case the weapon used, the degree of force released in wielding it, the antecedent relations of the parties, the manner in which the attack was made that is to say sudden or premeditated, whether the injury was inflicted during a struggle or grappling, the number of injuries inflicted and their nature and the part of the body where the injury was inflicted are some of the relevant factors. These and other factors which may arise in a case have to be considered and if on a totality of these circumstances a doubt arises as to the nature of the offence, the benefit has to go to the accused..."*

24. In **Shiv Kumar Vs. State (NCT) of Delhi** : 2014(2) JCC1 282, it was held that in dealing with Exception 4 to section 300 in

Mahesh Balmiki versus State of Madhya Pradesh, (2000) 1

SCC 310, it has been observed:-

"7. Now Exception 4 to Section 300 IPC is in the following terms: Exception 4.--Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

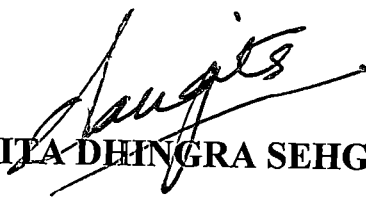
Explanation.--It is immaterial in such cases which party offers the provocation or commits the first assault. The requirements of this exception are:

- (a) without premeditation in a sudden fight;*
- (b) in the heat of passion upon a sudden quarrel;*
- (c) the offender has not taken undue advantage;*
- and*
- (d) the offender has not acted in a cruel or unusual manner. Where these requirements are satisfied, culpable homicide would not be murder."*

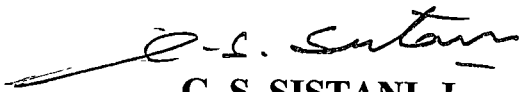
25. While deciding the present appeal the aforestated principles culled out by the Apex Court are to be kept in view. In our view all the requirements of exceptions as extracted hereinabove are satisfied. In the present case it is in evidence that the incident took place on the heat of the moment or upon a sudden quarrel and it cannot be said that the appellant had any intention to actually murder his own real brother. The fight was sudden and not preplanned. Accordingly, we find force in the submission of learned counsel for the appellant that the incident occurred on the heat of the moment on account of beatings given by the deceased to his wife Smt. Sunita under the influence of the liquor.
26. For the reasons stated above, we alter the conviction of the appellant from Section 302 of the Indian Penal Code to one under

Section 304 Part I of the Indian Penal Code. The order of sentence is accordingly modified to eight years. Accordingly, the appeal is partly allowed in the aforestated terms.

27. Copy of this order be sent to Superintendent Jail.
28. Copy of the judgment along with Trial Court Record be sent back forthwith.



SANGITA DHINGRA SEHGAL, J.



G. S. SISTANI, J.

MAY 29, 2015
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