

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 447 OF 2013**

Shri. Suman Vishal Himansu

.....Appellant

Vs.

Union Territory of Dadra and
Nagar Haveli

....Respondent.

Mr. Balkrishna Joshi a/w Mr. Virendra Pethe for the Appellant.
Mr. H.J.Dedhia for Respondent No.1 Special PP.

CORAM : S.S. SHINDE AND

A. S. GADKARI, JJ.

DATE : 15th OCTOBER, 2018.

P.C.:-

For the reasons recorded separately, we pass the following

Order-

OPERATIVE ORDER

- a) Considering the entire evidence on record, we are of the view that, exception 4 to Section 300 applies to the facts of the present case and the appropriate conviction would be under Section 304 Part (II) of the Indian Penal Code as this Court is of the view that, the present case falls within the purview of Section 304(II) of Indian Penal Code and not under

Section 302 of the Indian Penal Code.

- b) We accordingly, modify the Order dated 21st February, 2013 passed by the learned Sessions Judge, Dadra and Nagar Haveli Silvassa, in Sessions Case No.9 of 2012 and convict the Appellant under Section 304(II) of the Indian Penal Code and sentence him to suffer rigorous imprisonment for 10 years.
- c) The sentence of fine and in default sentence thereto, imposed by the Trial Court is maintained.
- d) The Appellant is entitled for set off under Section 428 of the Code of Criminal Procedure.
- e) Appeal is partly allowed in the aforesaid terms.

(A.S. GADKARI, J.)

(S.S. SHINDE,J.)