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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 158/2003**

STATE

..... Appellant

Through: Mr. Hirein Sharma, APP for the
State.

versus

JAIPAL SINGH & ORS.

..... Respondents

Through: Mr. R.P. Luthra, Advocate with
Mr. Sourabh Luthra, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE VINOD GOEL

JUDGMENT

05.07.2018

Dr. S. Muralidhar, J.:

1.This is an appeal filed by the State against the judgment dated 5th October, 2001 passed by the learned Additional Sessions Judge, Karkardooma Courts, Delhi in Sessions Case No.73/1998 arising out of FIR No.195/1998 registered at Police Station ('PS') Gokal Puri.

2. The State is in appeal to the extent that by the impugned judgment, the Trial Court has sentenced the three respondents for the offence punishable under Section 326 IPC for causing grievous injuries to the deceased Collector Singh and simple injuries to his son Yogesh (PW-

3) in an incident that occurred on 28th March, 1998 at Rama Garden Delhi. According to the State, three respondents ought to have been convicted for the offence punishable under Section 302 read with Section 34 IPC with which they were charged and as far as the death of Shri Collector Singh is concerned.

3. There were two eye witnesses to the incident i.e. the injured eye witness Yogesh (PW-3) and his wife Reena (PW-2).

4. As far as the incident itself is concerned, both witnesses were consistent that at around 8 pm on 28th March 1998, Respondent No.2 Anuj Singh (A-2) had come to purchase a bundle of *beedi*. When PW-3 told him that the cost of the *beedi* was Rs. 3, a verbal altercation ensued with A-2 stating that it cost only Rs.2.50. According to PW3, A2 then started assaulting him and as a result PW-3 raised an alarm asking his father to save him.

5. The deceased then emerged from his house and in the meanwhile A-2 went into the neighbouring house of the absconding accused Ram Kishore (who incidentally remained absconding throughout the trial and was declared proclaimed offender). From the house of A2 emerged A1 and A3 (Respondents No.1 and 3 respectively) and all four of them started giving lathi blows to the father of PW-3 i.e. Shri Collector Singh (deceased). The incident took place on 28th March,

1998 and Shri Collector Singh succumbed to the injuries on 31st March, 1998.

6. The Trial Court has in the impugned judgment accepted the evidence of PW 2 and PW-3 but concluded that none of the accused had intention to cause the death of Shri Collector Singh or of his son Yogesh. The trial Court, therefore, convicted the three accused as far as the death of Shri Collector Singh is concerned for the offence punishable under Section 326 IPC.

7. Having heard learned APP for the State and learned counsel for the accused and having perused the entire trial court record, this Court is unable to be persuaded hold that the trial Court has committed any grave illegality in coming to the above conclusion.

8. It may have been debatable, given the blunt force injuries on the head of the deceased, that the offence could be one punishable under Section 304 Part II IPC. However, at this distance in time i.e. more than 20 years after the incident and particularly given that by the time the trial concluded and the order on sentence was passed the three accused had already undergone more than 3½ years of imprisonment and were in fact was sentenced for the offence punishable under Section 326 IPC to the period already undergone, the Court is not inclined to interfere with either the conviction or the sentence awarded by the Trial Court.

9. Consequently, the Court is of the view that the impugned judgment and the order on sentence of the Trial Court does not require interference. The bail bonds and surety bonds furnished by the Respondents stand discharged. The original documents, if any, furnished by them for that purpose be returned to them by the Registry forthwith.

10. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

VINOD GOEL, J.

JULY 03, 2018

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