

1.12.2021
sl. 17 ct.35
sk.

C.R.A. 300 of 1989
(Avdesh Singh – vs- State of West Bengal)

Mr. Saswata Gopal Mukherjee
...for the State.

It appears from the case records that despite endeavours made by this Court, the appellant could not be brought on record.

Mr. Saswata Gopal Mukherjee, learned Public Prosecutor representing the respondent, State of West Bengal submits that this Court may pass necessary order after going through the case records.

I have minutely read the judgment passed by the learned Additional Sessions Judge, 11th Court, Alipore in Sessions Trial No. 6(1) of 1989 arising out of Sessions Case No. 43(12) of 1988. By the judgment the learned Trial Judge convicted the appellant Avdesh Singh for commission of the offence punishable under Section 304(part II) and under Section 324 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for five years for the offence under Section 304(part II) and rigorous imprisonment for six months for the offence under Section 324 of the Indian Penal Code. Both the sentences were directed to run concurrently.

The appellant faced the trial of the charges under Sections 302/324 of the Indian Penal Code

as well as under Section 9B of the Explosives Substance Act.

But what I find, the learned Judge after proper assessment and appreciation of the evidence reduced the charge under Section 302 of the Indian Penal Code to Section 304 (Part II) of I.P.C. and convicted accordingly.

However, I have also waded through the evidence as recorded by the learned court below. I find no illegality or infirmity in the judgment of the learned Trial Judge.

Therefore, the judgment and the order of conviction and sentence passed by the learned Trial Judge in the aforesaid sessions case is hereby confirmed.

In view of the above, the appeal is dismissed.

If the convict has served out the sentences, he be released forthwith.

However, if it is found that the convict is yet to serve out any part of the sentence, the learned Trial Judge is at liberty to pass necessary direction or order so that the convict serves out the remaining sentence, if any.

Let a copy of this order along with the Lower Court records be sent down to the learned Court below.

The appeal is disposed of accordingly.

Xerox certified copy of this order, if applied for, be given to the parties on urgent basis.

(Rabindranath Samanta, J.)