
(1976) 09 SC CK 0009
In the Supreme Court Of India
Case No : Criminal Appeal No. 361 of 1976

Shanabhai Dhulabhai Parmar	Vs	APPELLANT
State of Gujarat		RESPONDENT

Date of Decision : 02-09-1976

Acts Referred:

Penal Code, 1860 (IPC) — Section 307

Citation : AIR 1977 SC 1338 : (1977) CriLJ 1007 : (1977) 1 SCC 454 : (1978) 10 UJ 57

Hon'ble Judges : S. Murtaza Fazal Ali, J; R. S. Sarkaria, J; P. N. Bhagwati, J

Bench : Full Bench

Advocate : S. K. Mehta and M. N. Shroff, for the Respondent

Final Decision : Allowed

Judgement

P.N. Bhagwati, J.—This appeal by special leave is limited only to the question as to the nature of the offence committed by the appellant and the proper sentence to be imposed on him. The offence in this case was committed on 21st October, 1960 and it was after about 14 years, that the appellant was prosecuted for this offence. The learned Sessions Judge, before whom the appellant was tried, convicted him of the offence u/s 307 of IPC because the shot which was fired by the appellant hit the victim Ambalal in the middle of the left upper arm which would be only a few inches away from the vital part of the body, namely, the heart. And for this offence the learned Sessions Judge sentenced him to suffer rigorous imprisonment for five years. The appellant preferred an appeal but the High Court, agreeing with the learned Sessions judge, confirmed the conviction and sentence recorded against the appellant. Hence the present appeal preferred by the appellant, which, as we stated above, is restricted only to the nature of the offence and the sentence to be imposed on the appellant.

2. We have no doubt that the appellant was rightly convicted u/s 307 of the IPC. The reasons given by the High Court are cogent and valid and we do not see any reason to differ from them. We, therefore, maintain the conviction of the

appellant u/s 307 of the IPC. But, so far as the sentence is concerned we think that, having regard to the peculiar facts and circumstances of the case, as also the fact that the appellant was prosecuted for the offence after a period of about 14 years, we think it would meet the ends of justice if the sentence is reduced to two years' rigorous imprisonment.

3. We accordingly allow the appeal on the question of sentence and reduce the sentence of imprisonment imposed on this appellant from five years to two years, rigorous imprisonment. We are told that the appellant is on bail and hence the proper order would be that if the appellant has already served the sentence of two years' imprisonment, he need not be re arrested; otherwise he will surrender to his bail.