



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Appeal No. 757/2017

Karan Singh S/o Vijay Singh, Resident of Akali, Police Station
Gadra Road, Presently Residing at Indira Colony Barmer.
[Presently Lodged In Central Jail, Jodhpur.]

----Appellant

Versus

The State of Rajasthan

----Respondent

For Appellant(s) : Mr. Jagdish Singh
Ms. Priyanka Borana
For Respondent(s) : Mr. C.S. Ojha, PP

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE CHANDRA SHEKHAR SHARMA**

Judgment

1.	Date of conclusion of arguments	08.01.2026
2.	Date on which the judgment was reserved	08.01.2026
3.	Whether the full judgment or only operative part is pronounced	Full Judgment
4.	Date of Pronouncement	14.01.2026

BY THE COURT: (Per Chandra Shekhar Sharma, J)

The present criminal appeal has been filed under Section 374(2) of Cr.P.C. against the judgment of conviction and order of sentence dated 26.04.2017 passed by learned Additional Sessions Judge, No.2, Barmer in Sessions Case No. 16/2016 (102/2013 – State of Rajasthan Vs. Karan Singh) whereby appellant-Karan Singh was found guilty for the offence under Section 302 I.P.C. and he was sentenced to suffer life imprisonment and a fine of Rs.5000/-; in default of payment of fine, he was to further undergo Six months' Simple Imprisonment.

2. Succinctly stated, the facts of the case are that at the instance of the complainant, PW-2 Chunni Lal, a written report



(Ex.P.1) was lodged at Police Station Kotwali, Barmer, alleging that on 10.10.2013 at about 9:00 p.m., his nephew Kirit was taken to the Government Hospital, Barmer, after sustaining a head injury during a scuffle. On receiving this information, the complainant reached the hospital and learnt that the incident had occurred at Mahaveer Park, Barmer. He, thereafter, went to the place of occurrence, where Mukesh and Tikam Chand informed him that Kirit had been sitting on a slide where a person aged about 19–20 years was consuming liquor nearby. When Kirit objected to the consumption of liquor at a public place, a heated altercation ensued between them. Mukesh and Tikam Chand also advised the said person not to consume liquor at public place and then left for a stroll. After some time, they heard that a person was lying injured near the slide. On returning, they found Kirit lying injured, while the person who had been consuming liquor was not present at the spot. It was suspected that the said person had assaulted Kirit and fled from the scene.

3. On the basis of the said report, FIR No.373/2013 (Ex.P.28), came to be lodged at the Police Station Kotwali, Barmer for offence punishable under Section 307 IPC and investigation was commenced. During the course of investigation, police inspected the site and prepared the Site Inspection Map (Ex.P.2). Police recovered the scattered blood, piece of bone and hairs from the place of occurrence vide Memo (Ex.P.3). The blood stained clothes of injured Kirit was recovered as (Ex.P.4). The Test Identification Parade of the accused was conducted vide Memo (Ex.P.5). The





clothes of accused were recovered vide Memo (Ex.P.8). At the instance of accused, a Sariya was recovered vide memo (Ex.P.9). During treatment, injured Kirit passed away and police added the offence under section 302 I.P.C. Panchnama of the body of the deceased was prepared vide memo (Ex.P.14). The post mortem of the dead body of Kirit was conducted by Medical Board vide (Ex.P.31). Police also recorded the statements of several prosecution witnesses.

4. Accused Karan Singh was arrested vide arrest Memo (Ex.P.7) and after usual investigation, the charge-sheet came to be filed against him before the concerned Court for the offence punishable under Section 302 I.P.C. Learned Magistrate took cognizance of the offence and then committed the matter for trial to the learned Sessions Judge.

5. Learned Additional Sessions Judge No.2, Barmer (for short "the learned trial court") after hearing the arguments framed the charges against the accused under Section 302 I.P.C. who denied the charges and claimed trial, thus, the trial began. As many as 19 witnesses were examined and (Ex.P.1 to Ex.P.40) were exhibited in support of the prosecution. Thereafter, the learned trial court recorded the statements of accused-appellant under Section 313 Cr.P.C. The accused-appellant pleaded that he was falsely implicated in the present case out of ulterior motive. However, he did not produce any oral/documentary evidence in support of his defence. Subsequently, after hearing learned counsel for the parties, the learned trial court found the accused-appellant to be





guilty of the offence under Sections 302 IPC and sentenced him as mentioned above vide impugned judgment dated 26.04.2017.

6. Being aggrieved against the impugned judgment dated 26.04.2017, the accused-appellant has preferred the instant criminal appeal.

7. Mr. Jagdish Singh, learned counsel for the appellant, vehemently contended that there is neither direct nor indirect evidence on record to connect the accused-appellant with the alleged offence and the prosecution case rests solely on circumstantial evidence. It is further contended that the conviction recorded by the learned trial court is unsustainable in law, particularly in view of the doubtful recovery of the alleged weapon of offence, namely the *sariya* (iron rod).

8. Learned counsel for the appellant further submitted that the prosecution has utterly failed to establish or prove any motive attributable to the appellant and on this ground alone the accused deserves acquittal. It was contended that there was no prior enmity between the appellant-accused and the deceased and they were not even known to each other. It was further submitted that the alleged incident arose out of a sudden scuffle and there is no allegation on the part of the prosecution suggesting premeditation before the occurrence.

9. Lastly, it was argued by learned counsel for the appellant that in the absence of a proved motive, credible recovery, or reliable ocular or circumstantial evidence, the learned trial court,





erred while convicting the appellant. He, therefore, prayed that the impugned judgment may be quashed and set aside and the appellant-accused may be acquitted of all the charges. In the alternative, it was prayed that, having regard to the overall facts and circumstances of the case, particularly the fact that the incident occurred in the year 2013 and that the appellant has remained behind bars since his arrest i.e. for more than 12 years, while toning down the conviction to one under Section 304 Part-I of the IPC confine the sentence after accused-appellant to the period already undergone by him.

10. In support of his contentions, learned counsel for the appellant has placed reliance on the judgments of the Apex Court in the cases of ***Mohd. Rafiq @ Kallu Vs. The State of Madhya Pradesh reported in LL 2021 Sc 461*** and ***Akash @ Bunty etc. vs. State (Govt. of NCT of Delhi) (Criminal Appeal arising from SLP (Crl.) No.s.11367-11368 of 2024)***.

11. On the other hand, Mr. C.S. Ojha, learned Public Prosecutor submitted that the prosecution has proved the guilt of the accused-appellant beyond reasonable doubt on the basis of the cogent evidence on record. Learned Public Prosecutor, while supporting the impugned judgment, vehemently submitted that the learned trial court has rightly convicted the accused-appellant for the offence punishable under Section 302 IPC. It was further submitted that the nature of the weapon used and the injury caused clearly establish the intention of the accused to cause death. The learned trial court was fully justified in recording a





finding of guilt against the accused-appellant. Lastly, learned Public Prosecutor submitted that the learned trial court has duly considered and dealt with all factual as well as legal aspects of the matter, and therefore, the impugned judgment calls for no interference by this Court in the exercise of its appellate jurisdiction. However, the learned Public Prosecutor has not seriously opposed the prayer made by the learned counsel for the appellant that the sentence imposed upon the appellant may be modified to one under Section 304 Part I of the IPC.

12. We have heard learned counsel for the parties and considered the rival submissions and carefully scanned the evidence on record thoroughly.

13. PW-02 Chunnilal, uncle of the injured, stated that on 10.10.2013 at about 09:00 pm, he received information that his nephew Kirit was seriously injured and admitted to the hospital, where he found him unconscious with severe head injuries. Mukesh Kumar and Tikam Chand informed him at Mahaveer Park, that they had seen a youth arguing with Kirit who later assaulted him and fled. On the basis of which he lodged the written report (Ex. P.1) at Police Station Kotwali, and he also proved his presence during preparation of the site plan, seizure of blood, bone fragments and hair, and handing over of blood-stained clothes.

14. The prosecution in support of its case examined PW-05 Tikam Chand and PW-07 Mukesh as witnesses to the 'last seen' circumstance immediately preceding the occurrence. Both witnesses deposed that they had seen the deceased and the





appellant engaged in a verbal altercations just before the incident and there was no intervention during that period. They further stated that within a few minutes thereafter, upon returning to the spot on hearing a commotion, they found the deceased in an injured condition, whereas the appellant had already absconded from the scene of occurrence.

15. P.W.-05 Tikkam Chand stated that on 10.10.2013, while he and Mukesh were walking in Mahaveer Park, Barmer, they saw deceased Kirit sitting near a slide in the children's park and having a verbal altercation with a boy who was allegedly consuming alcohol in the park; he briefly intervened, advised the boy not to drink there, and thereafter left the spot. About 20-25 minutes later, he came to know that a Kirit was lying injured near the same slide and, on reaching there, found that the injured had already been taken away by ambulance. He identified the accused Karan Singh in court as the same person who was earlier arguing with Kirit and stated that he identified him in a Test Identification Parade held on 21.10.2013.

16. P.W.-07 Mukesh deposed that on 10.10.2013 he and P.W.-05 Tikkam Chand went for an evening walk in the park, where they saw deceased Kirit sitting on a slide and arguing with a boy over consumption of alcohol in the park. After the argument continued for a few minutes, they left that place and went to another part of the park. After about 15-25 minutes, they heard from people that a fight had occurred and on reaching there, found a crowd but did not witness the assault. He identified the accused Karan Singh in





the Court as the same person who had earlier argued with Kirit and stated that he also identified him in a Test Identification Parade held on 21.10.2013.

17. PW-13 Dr. Arun Kumar Soni, Senior Medical Officer and Medical Jurist at Government Hospital, Barmer, deposed that on 10.10.2013 he examined injured Kirit S/o Loonkaran on police requisition and found two punctured head wounds measuring 08×04 cm with fracture of the frontal bone and a swelling of 05×05 cm on the chest. The injuries were opined to be caused by a blunt weapon and within 24 hours in duration, and X-ray examination was advised. He stated that the injured was unconscious, in a critical condition, and was referred to a higher centre due to lack of facilities. He proved the injury report (Ex. P.19). In cross-examination, he admitted that timely neurosurgical intervention could have improved survival chances and that long-distance transportation of about 200 km without treatment could aggravate such injuries and contribute to death.

18. A careful appreciation of the statements of the abovementioned witnesses reveals that a scuffle had taken place between the appellant-accused and the deceased, during which the appellant inflicted injuries on the vital part of the deceased by a *sariya*, which was recovered at his instance. The chain of statements recorded by the trial court clearly establishes the involvement of the appellant in the commission of the offence. Upon a holistic consideration of the evidence on record, it stands established beyond reasonable doubt that the appellant committed





a homicidal act resulting in the death of the deceased, Kirit. The prosecution has thus proved that the death was homicidal in nature, for which the appellant was convicted by the learned trial court under Section 302 IPC.

19. It is well settled that merely because motive is neither alleged nor proved, the same would *ipso facto* not affect the prosecution case. Thus, we do not see any glaring illegality or perversity in the findings of guilt of the accused recorded by the learned trial court.

20. Now, the only question survives for consideration of this Court is whether the offence committed by the appellant could be brought down from the murder to culpable homicide not amounting to murder so as to alter his conviction from offence under Section 302 IPC to Section 304 Part-I IPC.

21. It is also significant to note that the appellant and the deceased were strangers to each other, with no prior enmity, conflict, or history of disputes. The incident appears to have arisen out of a sudden scuffle rather than any prearranged plan. The minor verbal altercation over the consumption of liquor in a public park is trivial and does not suggest a deliberate plan or intent to kill. No evidence indicates that the appellant harbored any animosity, grudge, or reason to commit murder against the deceased. The lack of prior hostility further supports the conclusion that the act, though fatal, was not committed with the deliberate intention to cause death.





22. The Apex Court in the case of **Stalin Vs. State represented by Inspector of Police, [(2020), 9 SCC 524]**, while altering conviction from Section 302 IPC to Section 304 Part-I IPC, observed as under:-

"7.2.It depends upon the facts and circumstances of each case. The nature of injury, the part of the body where it was caused, the weapon used in causing such injury were the indicators of the fact whether the Accused caused the death of the deceased with an intention of causing death or not. It cannot be laid down as a Rule of universal application that whenever the death occurs on account of a single blow, Section 302 Indian Penal Code was ruled out. The fact situation had to be considered in each case, more particularly, under the circumstances, the events which precede would also have a bearing on the issue whether the act by which the death was caused was done with an intention of causing death or knowledge that it was likely to cause death, but without intention to cause death. It was the totality of the circumstances which will decide the nature of offence."

23. In the present case, the incident occurred on 10.10.2013, and the deceased succumbed to the injuries on 14.10.2013, i.e., after a lapse of four days from the date of occurrence. In somewhat similar circumstances, where the deceased died three days after the incident, the Hon'ble Supreme Court recently in **Goverdhan v. State of Chhattisgarh, [2025 INSC 47]**, observed as under:

"90.What is also observable is that he did not succumb to the injuries immediately and he died on the third day of the incident.

It is also noticeable that the circumstances under which the assault took place and the reason for causing the injuries by the appellants and the motive behind their assault has not come out clearly. Even the sole eye witness, Lata Bai (PW-10), the mother of the deceased testified that her son was having visiting terms with the accused persons as they were residing in the same locality and she cannot tell why the quarrel occurred suddenly. It has not been





established clearly that it was premeditated and the assault was preplanned with the intention to kill the deceased. Any prior enmity between the appellants and the deceased has not been established. Thus, the motive for committing the crime has not been clearly established and proved.

91. However, it is established beyond reasonable doubt that the appellants had caused the death of the deceased fully knowing that the bodily injuries caused by the appellants were likely to cause death as the appellants were armed with deadly weapons, we are inclined to convert the conviction of the appellants from Section 302 IPC to Part I of Section 304 Page 62 of 63 IPC. Accordingly, we convict the appellants under Part I of Section 304 IPC."

24. In light of the totality of facts and circumstances of the case as well as after appreciation of the evidence brought on record, this Court feels appropriate to interfere in the final decision arrived at by the learned trial court to the extent of altering the conviction of accused-appellant from Section 302 IPC to Section 304 Part-I IPC.

25. In view of the overall discussion of the evidence adduced by the prosecution and the observations made herein above, we hold that the conviction of the appellant under Section 302 IPC is not just and proper and therefore, the findings of the learned trial Court, to this extent, deserve to be quashed and set aside. Hence, the conviction of the appellant Karan Singh is altered from Section 302 IPC to Section 304 Part-I IPC.

26. In the present case, the occurrence dates back to the year 2013. At the time of the incident, the appellant was approximately 19 years of age and was a first-time offender. He has remained in judicial custody since his arrest and has already undergone incarceration for a period exceeding 12 years. Having regard to





the totality of the facts and circumstances of the case, this Court is of the considered view that the ends of justice would be adequately served by reducing the sentence of imprisonment awarded to the appellant to the period already undergone.

27. In view of the discussion made herein above, the period of sentence awarded to the accused-appellant deserves to be reduced to the period already undergone by him, which is more than 12 years, which in the firm opinion of this Court, is sufficient to meet the ends of justice in the peculiar circumstances of this case.

28. Accordingly, the instant appeal is party allowed. The impugned judgment of conviction and order on sentence dated 26.04.2017 passed by learned Additional Sessions Judge No.2, Barmer in Sessions Case No.16/2016 (102/2013) is modified to the extent that the conviction of the appellant Karan Singh under Section 302 IPC is set aside and instead, he is convicted under Section 304 Part-I IPC. The period of sentence is reduced to the period already undergone by him. He be released forthwith if not warranted in any other case.

29. Pending application(s), if any, shall stand disposed of.

30. Record be sent back forthwith.

(CHANDRA SHEKHAR SHARMA),J (VINIT KUMAR MATHUR),J

99-T.Singh/-