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CRA-6645-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 6th OF MARCH, 2026CRIMINAL APPEAL No. 6645 of 2025*VINOD THAKUR**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Laxmi Chandra Chourasiya - Advocate for the appellant.

*Shri Kamal Singh Baghel - Government Advocate for the
respondent/State.*

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ORDER

Per. Justice Vivek Agarwal

Learned counsel for the appellant prays for withdrawal of I.A. No.16888/2025, which is the first application for suspension of sentence and grant of bail to the appellant.

2. Accordingly, I.A. No.16888/2025 is dismissed as withdrawn.
3. With the consent of learned counsel for the parties, case is taken up for final disposal at motion stage.

4. This Criminal Appeal under Section 374(2) of the Cr.P.C./415 of the BNSS, is filed by the appellant being aggrieved of the judgment dated 14.06.2025 passed by learned 3rd Additional Session Judge, Bhopal in Sessions Trial No.212/2024, whereby appellant has been convicted



for offence under Section 302 of IPC and has been sentenced to undergo life imprisonment with fine of Rs.2,000/- with default stipulation of R.I. for 6 months.

5. Learned counsel for the appellant submitted that as per the prosecution story given by complainant Amita Chandel (PW-1) and witnesses Rakhi Kushwaha (PW-2), Rajkumar Chandel (PW-4), Kashish Chandel (PW-3), Poonam Kushwaha and Aishwarya Chandel (PW-5) although on the basis of CCTV footage, it has come on record that on 29.09.2023 at about 3.00 am, complainant Amita Chandel wife of Rajkumar Chandel resident of Patel Nagar, Bhopal, lodged a report that on 28.09.2023 at night procession of Ganesh Chaturthi was taken out. She along with her sister Rakhi, brother Amit, sister-in-law Jyoti Siloria and children were sitting on the footpath below Milan Hotel and were watching that procession. At about 2.00 a.m., two-three persons who were dancing as a part of one Jhanki started throwing stone on each other. One of them came and sat on a footpath between her daughter and niece. When her brother Amit objected, then that person i.e. present appellant Vinod had abused him and had thrown a stone on his head, as as result of which injury was caused to Amit and he had intensely fallen down.

6. It is submitted that it is a case of sudden quarrel. The injury was not intentional. There may be knowledge of the consequences but intention was not there as the incident had taken place at the spur of the moment.

7. Dr. Kelu Girwal (PW-17) conducted postmortem and found that there was a lacerated wound measuring 0.2 cm on the right hand side of the



head. There was hair line abrasion on parietal region measuring 9 x 1 cm. There were abrasions on other parts of the body. Cause of death was on account of the head injury, which resulted in heart failure. Injury was caused within 24 hours of the incident. Thus, prayer is made to alter the conviction from one under Section 302 to Section 304 of IPC.

8. Shri Kamal Singh Baghel, learned Government Advocate for the State, in his turn, after opposing the prayer for some time submits that present is a case where conviction can be altered from one under Section 302 to 304 (Part II) IPC.

9. We have heard learned counsel for the parties and gone through the record.

10. Amita Chandel (PW-1) admitted that the incident took place at the spur of the moment. They often visited Media Road to watch processions. Hotel Milan is just opposite to Dr. Shakir Ali Hospital. She admits that when dehati nalsi Ex.P/1 was recorded at that time she had no knowledge about names of the assailants. She admits that she had no introduction to the assailants, infact they were throwing stones on each other at the place of procession. She admits that footpath abutting the place of the procession can be occupied by anybody. She admits that accused appellant had sat near them and dispute was going between three-four persons, who were hitting stones on each other.

11. When this part of the evidence is read alongwith the evidence of Dr. Kelu Girwal (PW-17), who has admitted the in her query report Ex.P/30, she has not categorically stated as to whether the injuries were caused with a



bamboo stick or on account of stone throwing, it being a incident which took place at the spur of the moment, there being no premeditation, then the act of the appellant will fall under IVth exception to Section 300 of IPC.

12. Thus, in view of such facts when tested in the light of the law laid down by the Supreme Court in **Jugut Ram Vs. State of Chhattisgarh [(2020) 9 SCC 520]** so also in case of **Kariman Vs. State of Chhattisgarh (2024 SCC Online SC 607)**, we are of the opinion that case of the appellant will be covered under IV exception to Section 300 IPC and present is a fit case to alter conviction and sentence from one under Section 302 IPC to Section 304 (Part II) IPC and accordingly, sentence is also altered from life imprisonment to seven years R.I. with fine of Rs.10,000/-,with default stipulation of six months rigorous imprisonment.

13. In above terms, appeal is **partly allowed and disposed of**.

14. Record of the learned trial Court be sent back.

(VIVEK AGARWAL)
JUDGE

(RATNESH CHANDRA SINGH BISEN)
JUDGE