

Shamshad Vs. State of U.P.

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Court : Supreme Court of India

Decided On : Nov-01-2000

Reported in : (2002)10SCC576

Judge : K.T. Thomas and; R.P. Sethi, JJ.

Acts : [Indian Penal Code \(IPC\), \(IPC\) 1860](#) - Sections 304, 302

Appeal No. : Criminal Appeal No. 423 of 2000

Appellant : Shamshad

Respondent : State of U.P.

Advocate for Pet/Ap. : Mr. B.B. Singh

Judgement :

K.T. Thomas and; R.P. Sethi, JJ.

1. We heard Mr B.B. Singh, learned counsel for the appellant and Mr Praveen Swarup, learned counsel for the State of U.P. The concurrent finding on facts do not require interference by us. Mr B.B. Singh then made an alternative contention that the offence can be changed to Section 304 Part I IPC on the premise that it was not a premeditated murder. That aspect alone cannot help for lowering the offence from Section 302 to Section 304 Part I IPC. The injuries sustained by the accused are all simple and he would have sustained them in the course of the

action he lodged against the deceased and the two other injured PW 1 and PW 2. It is to be noted that all those victims sustained very serious injuries and the injuries sustained by the deceased are devastatingly serious. In the course of inflicting those injuries it is quite possible that they too would have resisted against the onslaughts and that would account for the minor injuries found on the person of the appellant. For those reasons we are not persuaded to interfere.

2. This appeal is accordingly dismissed.

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