IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 1456 of 2018

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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RAVAL SHAILESHBHAI RAMESHBHAI VIRCHANDBHAI
Versus
STATE OF GUJARAT

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Appearance:
MR PRATIK B BAROT(3711) for the Appellant(s) No. 1
MR RONAK B. RAVAL, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 17/02/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. The present Criminal Appeal is preferred by the appellant–accused under Section 374 of the Code of Criminal Procedure, 1973, being aggrieved by the judgment of conviction and order of sentence dated 30/05/2018 passed by the learned Sessions Judge in Sessions Case No. 44/2017, whereby the appellant was convicted for the offence punishable under Section 302 of the Indian Penal Code. The learned Sessions Court sentenced the appellant to undergo rigorous imprisonment for life and to pay a fine, in default

to further undergo rigorous imprisonment for the offence under Section 302 IPC.

2. The prosecution case, in brief, is as follows:

2.1 On 20-06-2016 at around 12:30 PM, on the service road adjacent to Wide Angle Cinema situated on the Mahesana town highway, the deceased Rawal Govindbhai Dhanabhai, aged about 30 years, resident of Mahesana, was standing near his soda rickshaw engaged in his routine vending business. At that very time, the accused Rawal Shaileshbhai Rameshbhai, who is related to the deceased and also a resident of the same locality, arrived at the spot riding his motorcycle. Initially, both the deceased and the accused appeared to be on friendly terms and indulged in light-hearted joking, banter and mutual exchange of abuses in a playful manner as was their usual habit.

2.2 However, what started as harmless fun soon turned into a heated quarrel when the accused began using extremely filthy, provocative and unparliamentary abuses directed towards the deceased, specifically referring to his mother and sister in a highly derogatory and insulting manner. The deceased, objecting strongly to such abusive language, refused to respond in kind or escalate the verbal exchange further. This refusal is alleged to have suddenly and intensely provoked the accused, who, in a fit of rage and loss of self-control, immediately took out a folding knife having a black handle from his pocket, pressed the button to open, and started inflicting repeated blows on various parts of the deceased’s body. The blows were specifically aimed at vital parts and included the first blow at the middle portion of the stomach, followed by

blows on the right shoulder, on the left side of the chest, on both right and left sides of the abdomen, a piercing blow on the lower part of the right hand, a blow on the palm of the left hand, and a blow on the left side of the neck. These multiple injuries caused by a sharp cutting and piercing weapon were alleged to have been inflicted with the specific intention to cause death, resulting in fatal and life threatening wounds. During the assault, when the complainant an eyewitness and injured person in the case rushed to intervene and separate the two, the accused also struck him with the same knife near the palm of his right hand and continued to hurl extremely filthy abuses, thereby disturbing public peace and tranquility at the spot. Immediately after the incident, the injured deceased was shifted to Mahesana Civil Hospital for emergency treatment and, owing to the seriousness and critical nature of his injuries, was subsequently transferred to Ahmedabad Civil Hospital for advanced medical care. Unfortunately, despite continuous medical efforts and treatment over several days, the deceased succumbed to the multiple piercing injuries and their complications, including cardiac and respiratory failure, on 28-06-2016. It is the specific case of the prosecution that the accused acted with full knowledge and intention that the nature, number and location of the injuries caused by a sharp weapon on vital parts of the body were sufficient in the ordinary course of nature to cause death, thereby committing the offence of murder punishable under Section 302 IPC.

3. Upon registration of the complaint, an FIR was registered at Mahesana City B Division Police Station being C.R. No. 134/2016 for offences under Sections 307, 324, 504 IPC and Section 135 of the Gujarat Police Act. After the death of the injured during treatment, Section 302 IPC was added. The investigating officer

recorded statements, drew panchnamas, recovered the muddamal knife at the instance of the accused, sent articles to FSL, collected medical papers and filed chargesheet in the court of the learned Chief Judicial Magistrate, Mahesana, registered as Criminal Case No. 9531/2016, which was later committed to Sessions Court as Sessions Case No. 44/2017.

4. The learned Sessions Judge framed the charge against the appellant-accused under Section 302 of the Indian Penal Code and proceeded with the trial in accordance with law. In order to bring home the guilt of the accused and to establish the charges levelled against him beyond reasonable doubt, the prosecution examined in all 23 witnesses, including material eyewitnesses, injured witnesses, panch witnesses, police witnesses, and three medical officers who had treated the deceased at different stages and conducted the postmortem examination. The prosecution also produced and relied upon a large number of documentary evidences, including the FIR, panchnamas of scene of offence and recovery of weapon, inquest panchnama, postmortem notes, medical certificates, treatment records from Mahesana Civil Hospital and Ahmedabad Civil Hospital, FSL reports, dying declaration recorded by treating doctors, and other contemporaneous documents.

4.1 The learned Sessions court, in compliance of law, recorded the further statement of the accused under Section 313 of the Code of Criminal Procedure, 1973. In his said statement, the accused categorically denied all the incriminating circumstances and evidence appearing against him on record. He pleaded complete innocence, asserted that he had no concern whatsoever with the

alleged incident, stated that he knows nothing about the incident, and contended that a false case has been filed against him out of enmity. He did not examine any defence witness nor did he produce any documentary evidence in his defence.

5. In order to prove the charge of murder punishable under Section 302 IPC and other offences originally levelled, the prosecution examined as many as 23 witnesses in all and exhibited a total of 26 documentary evidences during the course of the trial.

Oral Evidences:

Sr. No.	Name	Exh.
1	Dr. Ramesh Kumar Maganbhai Shah	7
2	Dr. Bhairavi Dipak Joshi	16
3	Dr. Purvi Sheetalgiri Goswami	50
4	Thakor Vikramji Ramsangji	12
5	Thakor Rameshji Maganji	15
6	Thakor Mohanji Khodaji	22
7	Thakor Amratji Diwanji	25
8	Raval Sanjaykumar Lilabhai	26
9	Goswami Mahendragiri Santoshgiri	29
10	Thakor Jitendra Parbatji	32
11	Vyas Kamleshkumar Rupshankar	33
12	Panchal Bhanubhai Babulal	36
13	Variyani Mahjeshkumar Narandas	37
14	Raval Rekhaben Govindbhai	40
15	Raval Kantibhai Veljibhai	43
16	Goswami Sanjaybharathi Rambharathi	44
17	Goswami Sunilbharathi Kailasbharathi	45
18	Chaudhary Ramesh bhai Ramjibhai	46
19	Raval Rajubhai Kantibhai	49
20	Desai Maganbhai Malabhai	56
21	Katana Nagjibhai Gokalbhai	61
22	Jadeja Satensingh Parbatsingh	68
23	Trivedi Kaushikkumar Hemshankar	71

Documentary Evidences:

Sr. No.	Document	Exh.
1	Inquest Panchnama	6
2	Complainant's Treatment Certificate	8
3	Deceased Person's Treatment Certificate	10
4	Crime Scene Panchnama	13
5	Post-Mortem Note	17
6	Cause of Death Certificate	18
7	Panchnama of Complainant's Body Condition and Seizure of Clothes	23
8	Panchnama of Deceased Person's Body Condition and Seizure of Clothes	27
9	Panchnama of Accused's Body Condition and Seizure of Clothes	30
10	Murder Weapon Recovery Panchnama	34
11	Complainant's Complaint	38
12	F.S.L. Preliminary Report	47
13	Uniform Report	58
14	Depute Order	59
15	Special Report of the Crime	60
16	Letter Regarding Sending Muddamal to F.S.L.	62
17	Muddamal Dispatch Entry	63
18	Receipt of Muddamal Received	64
19	F.S.L. Biology Department Report	65
20	F.S.L. Serology Department Report	66
21	Copy of Notification/ Jahernama	67
22	Letter Regarding Taking Statement of Injured Person	69
23	Report of addition in Sections	70
24	Report for Registering the Crime	72
25	Letter Written for Taking Statement of Deceased Person	73
26	Copy of Letter Written to Executive Magistrate for D.D.	74

6. The evidence led by the prosecution consisted principally of the testimony of medical officers who had treated the deceased at Mahesana Civil Hospital and Ahmedabad Civil Hospital, the doctor who conducted the postmortem examination confirming homicidal

death due to multiple piercing injuries and their complications, the recovery of the muddamal knife at the instance of the accused, FSL reports linking the weapon to the nature of injuries, and most importantly, the dying declaration recorded by the treating doctors at both hospitals wherein the deceased, while fully conscious, had specifically named the accused as the person who inflicted the knife blows upon him. The complainant, who was projected as an eyewitness and injured person, turned hostile during his examination-in-chief and did not support the prosecution version regarding the incident or the role of the accused. However, the prosecution placed strong reliance on the medical evidence, the postmortem opinion, the recovery panchnama, and the dying declaration which were proved through the testimony of the concerned medical officers and which were argued to be admissible and reliable under Section 32(1) of the Indian Evidence Act, 1872, as statements relating to the cause of death made by the deceased in a conscious state before reliable witnesses. After appreciating the entire oral and documentary evidence on record, the learned Sessions court recorded the finding of guilt against the accused under Section 302 IPC and convicted and sentenced him accordingly.

7. Learned advocate for the appellant-accused further submitted that the appellant has already undergone a substantial period of incarceration, having completed approximately 8 years and 10 months of actual imprisonment till the date of arguments. It was urged that in view of the nature of the incident, which arose out of a trivial altercation involving initial joking, mutual exchange of abuses and a sudden quarrel without any premeditation or prior enmity, coupled with the prolonged period of custody already suffered by the appellant, the sentence may appropriately be

reduced to the period already undergone or to a reasonable term. It was further submitted that the appellant is the sole earning member of his family, and his continued incarceration would cause irreparable hardship and suffering to his dependents who rely upon him for their livelihood and daily needs.

8. Learned APP Mr. Ronak B. Raval, while strongly supporting the findings of the learned Sessions Court on the reliability of the medical evidence establishing that the multiple piercing injuries were sufficient in the ordinary course of nature to cause death, the postmortem opinion confirming homicidal death due to the said injuries and their complications leading to cardiac and respiratory arrest, the recovery of the muddamal knife at the instance of the accused, the FSL report, and the dying declaration recorded by the treating doctors at Mahesana Civil Hospital and Ahmedabad Civil Hospital wherein the deceased categorically named the accused as the assailant, very candidly submitted that upon re-appreciation of the entire material on record, the incident though having taken place in a sudden quarrel even without any premeditation, and in the absence of any prior enmity, the Court may consider that the weapon was carried by the accused himself and the act was committed in the heat of passion following provocative abuses. However, in continuation, it was submitted that except for the suddenness of the quarrel and mutual exchange of hot words, nothing further transpires to show that the accused took undue advantage or acted in a cruel manner, yet the nature, number and location of injuries on vital parts demonstrate clear intention to cause death or knowledge that such acts were likely to cause death.

9. Having heard the learned advocate for the appellant and the learned APP for the State at length, and having carefully considered the entire evidence on record including the postmortem report at Exh.-17, the opinion of Dr. Bhairavi Dipak Joshi that death occurred due to piercing injuries and complications leading to cardiac and respiratory arrest with injuries Nos. 3, 4 and 5 being grievous and sufficient in the ordinary course of nature to cause death, the medical certificates and treatment records from both hospitals, the dying declaration proved through Dr. Rameshkumar Maganbhai Shah and Dr. Purvi Sheetalgiri Goswami wherein the deceased, while conscious, attributed the knife blows to the accused, the hostile complainant who did not support the prosecution but whose initial history was also recorded, the recovery of the knife and FSL opinion that such injuries could be caused by the muddamal weapon, as well as the submissions advanced on behalf of both sides, the core issue that arises for determination is whether, in the facts and circumstances of the present case, the conviction of the appellant under Section 302 of the IPC for the offence of murder is sustainable, or whether, in view of the sudden quarrel, mutual provocation through abusive language, absence of premeditation, the heat of passion in which the incident occurred, and the nature of injuries some grievous and fatal while others simple, the act would fall within the ambit of culpable homicide not amounting to murder, attracting Section 304 Part I or Part II of the IPC, and whether the benefit of Exception 4 to Section 300 IPC can be extended to the appellant.

9.1. As agitated by the learned advocate for the appellant, while placing reliance upon different judgments, it is contended that the present case rests solely on the aspect that the offence would fall within the ambit of Sections 304 Part I or Part II of the Indian

Penal Code, and would be covered by Exception 4 to Section 300 of the IPC. Accordingly, it is urged that the accused is entitled to the benefit thereof, on the ground that the case can be classified as culpable homicide not amounting to murder, rather than murder punishable under Section 302 of the IPC. And in light of submissions that the appellant had already served approximately 8 years and 10 months, the imposed sentence aligns closely with the period undergone or up to the awarded 10 years, balancing the gravity of the act with the mitigating circumstances of sudden provocation. The ratio of the judgments relied upon, in a nutshell, is as under:

(i) In the case of ***Major Singh v. State of Punjab***, the Hon'ble Supreme Court held that intention is pivotal in deciding whether the accused has committed culpable homicide amounting to murder or culpable homicide not amounting to murder. The Court further observed that, along with intention, the knowledge of the accused and the degree and manner of the crime play an important and significant role in arriving at such determination.

(ii) In the case of ***Khuman Singh v. State of Madhya Pradesh***, the Hon'ble Supreme Court modified the conviction of the appellant under Section 302 of the Indian Penal Code to one under Section 304 Part II of the IPC, considering the facts and circumstances of the case. The Court observed that where the case does not satisfy the requirements of murder under Section 302 IPC, the conviction can be appropriately altered to culpable homicide not amounting to murder. Taking into account that the appellant had already undergone more than twelve years of imprisonment, the Hon'ble Court deemed it just and proper to sentence the appellant to the

period already undergone.

(iii) In the case of ***Nandkumar @ Nandu Manilal Mudliar v. State of Gujarat***, the Hon'ble Supreme Court held that a significant delay in death due to secondary complications such as septic conditions, rather than the immediacy of the initial injury, indicates an absence of immediate intention to cause death. Consequently, the conviction under Section 302 IPC (murder) was converted to one under Section 304 Part I IPC (culpable homicide not amounting to murder), as the act was committed with knowledge that it was likely to cause death but without the requisite intention to kill as required for murder under Section 300 of the Indian Penal Code, 1860.

(iv) In the case of ***Atul Thakur v. State of Himachal Pradesh***, the Hon'ble Supreme Court held that Exception 4 to Section 300 of the Indian Penal Code, 1860, applies to culpable homicide not amounting to murder when the act is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, without the offender taking undue advantage or acting in a cruel or unusual manner. The Court ruled that neither the number of wounds inflicted nor the use of a knife by itself can be a decisive factor to deny the benefit of Exception 4 and sustain a conviction under Section 302 IPC. Finding that the High Court committed a manifest error in being unduly influenced by these factors, the Supreme Court set aside the High Court's order, restored the Trial Court's finding on the nature of the offence, and convicted the appellant under Section 304 Part II IPC. Considering the trivial nature of the provocation and the gravity of the assault involving multiple blows with a knife, the Court held that a light

punishment was not warranted and enhanced the sentence from five years to ten years' rigorous imprisonment with a fine of Rs. 10,000, in default further imprisonment, while allowing set-off for the period already undergone under Section 428 CrPC.

(v) In the case of ***Devendra Kumar v. State of Chhattisgarh***, the Hon'ble Supreme Court held that when an offence is committed in a sudden fight in the heat of passion, arising from a sudden quarrel without any premeditation, and the accused does not take undue advantage or act in a cruel or unusual manner, the act squarely falls under Exception 4 to Section 300 of the Indian Penal Code, 1860, and amounts to culpable homicide not amounting to murder. The Court observed that where the circumstances clearly satisfy the conditions of this Exception namely spontaneous eruption of the altercation without prior planning and absence of unfair exploitation or exceptional cruelty the conviction under Section 302 IPC cannot be sustained. Consequently, the offence was reclassified as culpable homicide not amounting to murder under Section 304 IPC, warranting modification of the conviction and sentence accordingly.

(vi) In the case of ***Goverdhan & Another v. State of Chhattisgarh***, the Hon'ble Supreme Court held that the testimony of a sole eyewitness, if credible and natural, can be relied upon when corroborated by other evidence, including medical reports and the nature of injuries. Nevertheless, upon appreciation of the overall circumstances, the Court found that the act disclosed no premeditation or clear motive to cause death, and the assault occurred in the course of a sudden quarrel without the requisite intention to kill as required for murder. Accordingly, the conviction

under Section 302 of the Indian Penal Code, 1860, was set aside and converted to one under Section 304 IPC, thereby partly allowing the appeal with modification in the nature of conviction and sentence to reflect the correct legal classification of the offence.

9.2. Per contra, the learned Additional Public Prosecutor appearing for the State, while supporting the conviction of the appellant under Section 302 of the Indian Penal Code, relied upon the following judgments:

(a) ***Rimlabhai Poonabhai Rathva v. State of Gujarat***, (b) ***State of Himachal Pradesh Vs. Chamnlal*** and (c) In the case of ***Anbazhagan v. State*** represented by the Inspector of Police, the Hon'ble Supreme Court elaborated on the fine distinction between culpable homicide under Section 299 and murder under Section 300 of the Indian Penal Code, 1860, observing that homicide is the genus and murder its species, with all murders being culpable homicides but not vice versa. The Court clarified that the distinction between Clause (b) of Section 299 and Clause Thirdly of Section 300 lies in the degree of probability of death from the intended bodily injury: "likely" in Section 299 denotes probable, whereas "sufficient in the ordinary course of nature to cause death" in Clause Thirdly means death is the most probable result. The Court held that even a single injury, if intended and objectively sufficient in the ordinary course of nature to cause death, satisfies Clause Thirdly of Section 300, rendering the offence murder under Section 302 IPC, and it is fallacious to assume that a single injury invariably reduces the offence to culpable homicide not amounting to murder irrespective of circumstances. Further, the Court distinguished "intention" from "knowledge," holding that intention

must be inferred from facts and circumstances such as the nature of the weapon, site and nature of injuries, and opportunity available, and cannot be equated with mere knowledge of likely consequences, as intention requires purposeful action beyond foresight or awareness. The framers of the IPC deliberately used separate terms “intention” and “knowledge,” with intent to cause bodily injury likely to cause death falling under Section 304 Part I, and knowledge that the act is likely to cause death without such intent falling under Section 304 Part II. Additionally, Part I of Section 304 applies where murder is first established but the accused is given the benefit of an Exception to Section 300, whereas Part II applies where murder is never established at all, and the accused need not bring the case within any Exception. These principles must be carefully borne in mind to avoid miscarriage of justice in adjudicating charges under Section 302 IPC.

Factual Matrix coupled with reasoning:-

10. The record demonstrates that the quarrel arose suddenly over a trivial altercation involving joking and mutual exchange of abuses between the accused and the deceased. The accused did not come armed to the spot; rather, he took out a knife with a black handle from his pocket during the heat of the moment. The evidence indicates that the multiple blows were inflicted in a fit of anger following the deceased's refusal to retaliate with abuses. This Court finds that there was no premeditation or prior intention on the part of the accused to cause the death of the deceased.

10.1 However, the blows were inflicted on vital parts of the body, including the stomach, chest, abdomen, right shoulder, lower right

hand, left palm, and left side of the neck, with considerable force using a sharp weapon. This clearly establishes that the accused had knowledge that such an act was likely to cause death, although the element of intention to cause death cannot be conclusively inferred from the circumstances. Therefore, while the act constitutes culpable homicide, it lacks the essential ingredient of intention that would elevate it to murder under Section 300 IPC.

11. From the evidence on record, particularly the medical certificates at Exhs. 8, 10, 11 and 53, the postmortem note at Exh.-17, and the testimony of the doctors who examined the deceased, including Dr. Rameshkumar Maganbhai Shah at Exh. 7, Dr. Purvi Sheetalgiri Goswami at Exh. 50, and Dr. Bhairavi Dipak Joshi at Exh. 16 who conducted the postmortem. It clearly emerges that the deceased Govindbhai Dhanabhai Rawal had sustained multiple piercing and incised wounds, including a stab wound of 2.5 × 0.5 cm between the 6th and 7th ribs cutting the rib and diaphragm reaching the abdomen with a tract length of 10 to 12 cm, another stab wound of 4 × 0.5 cm reaching the abdomen with a tract length of 7 cm, a stab wound of 4 × 1 cm partially cutting the left 7th rib about 5 cm deep, an incised wound of 10 × 2 × 0.5 cm on the left hand with exposed soft tissue and tendons, a stab wound of 2.5 × 0.7 × 4 cm on the left arm, an incised wound of 5 × 0.5 × 0.2 cm on the right arm, an incised wound of 12 × 3.5 × 5 cm on the lower right arm with stitches on muscles, and a horizontal incised wound of 3 × 0.2 × 0.1 cm on the left hand, all of which were antemortem and accompanied by surgical wounds for treatment such as abdominal drain and intercostal drainage.

11.1 The doctor has opined that injuries Nos. 3, 4, and 5 were grievous in nature and sufficient in the ordinary course of nature to

cause death, and the muddamal article No. 15 knife was identified as capable of inflicting such wounds. Although in cross-examination the doctor agreed that such injuries could occur in other ways, the panchnama of the scene of offence and the FSL report do not indicate any alternative cause, thereby ruling out the defence plea.

11.2 The nature, depth and location of the injuries, particularly those piercing vital organs leading to pus layers on the left lung and heart, congested internal organs, and approximately 300 ml of bloody fluid in pleural cavities, indicate that the assault was carried out with considerable force; however, the medical evidence does not conclusively establish an intention to cause death, but it clearly demonstrates knowledge that such acts were likely to cause death or at least serious bodily harm.

12. The prosecution has also examined the complainant Variyani Maheshkumar Narandas at Exh.-37, and on perusal of his entire testimony, the factum of his presence at the time of the incident appears doubtful under the surrounding circumstances as he turned hostile and denied knowledge of the incident or the deceased. However, even if it is considered that he was present at the time of the incident, the manner in which the occurrence took place is that the present appellant– original accused allegedly inflicted multiple knife blows while hurling abuses, because of which the deceased collapsed. Due to the intervention, the complainant also sustained an injury on the right hand palm. Immediately thereafter, both the injured complainant and the deceased were taken to the Mahesana Civil Hospital, where the deceased was admitted.

12.1 However, as the deceased had sustained serious injuries, he

was referred to the Ahmedabad Civil Hospital, where, after undergoing treatment for about eight days, he succumbed to the injuries. Thus, the prosecution witnesses, namely the medical officers – Dr. Rameshkumar Maganbhai Shah, Dr. Purvi Sheetalgiri Goswami, and Dr. Bhairavi Dipak Joshi, who claimed to have recorded history and treated or examined the deceased, when their depositions are read together with the medical evidence, indicate that the death of the deceased was not a natural one but a homicidal death due to piercing injuries and complications. However, the question which requires consideration, in view of the entire evidence on record, is as to how and in what circumstances the deceased came to die.

13. It transpires that the prosecution in support of its case has examined 23 witnesses however, out of the said witnesses the only injured complainant Variyani Maheshkumar Narandas at Exh.-37 who has narrated the incident but turned hostile and did not support the case.

14. It transpires from the entire material placed for consideration that the cause behind the incident as per the case of the prosecution is a sudden quarrel over exchange of abuses, however no such evidence seems to have been placed on record which otherwise create shadow of doubt as to the substance and case of the prosecution that the witnesses while modifying and rectifying its case appears to have stated that the quarrel was mutual. The theory of the prosecution that the accused was provoked by the deceased's refusal to abuse does not find confidence to the said extent. Be it may as it is reverting to the following aspects. The said fact seems to having not been proved by the prosecution beyond the reasonable doubt be as it may be. The defence has also tried to

put up the case made an endeavor to place on the record that the injuries could occur in other ways such as falling on a broken glass bottle however, the said fact seems to have denied by the said witnesses and appears to have reiterated the case of the prosecution.

15. The dying declaration recorded by the treating doctors assume paramount importance in this case, particularly in light of the complainant having turned hostile and not supporting the prosecution version regarding the incident. As per the testimony of Dr. Rameshkumar Maganbhai Shah at Exh.-7, when the deceased Govindbhai Dhanabhai Rawal was brought to the emergency department of Civil Hospital, Mahesana around 2:00 PM on 20-06-2016, he was fully conscious and himself narrated the history that "on 20/06/2016 at 1:45 PM near Wide Angle, Shaileshbhai Rawal inflicted knife blows."

15.1 Similarly, Dr. Purvi Sheetalgiri Goswami at Exh.-50 deposed that when the deceased was received at Ahmedabad Civil Hospital around 4:31 PM with the transfer sheet, he was conscious and reiterated in his own words: "Today around 1 PM near Mahesana Wide Angle Cinema, knife blows by Shaileshbhai Rawal." These statements were not only recorded in the presence of the respective medical officers but were also contemporaneously noted in the treatment records and OPD case papers at Exhs. 52 and 53, which were duly proved during the trial.

15.2 Both doctors confirmed in their evidence that the deceased was in a fit state of mind and conscious at the time of giving the history, thereby satisfying the foundational requirements for

reliability. These statements, being made by the deceased as to the cause and circumstances of the transaction resulting in his death, squarely fall within the ambit of Section 32(1) of the Indian Evidence Act, 1872, and are admissible as dying declarations even though the deceased may not have been under an immediate expectation of death at the time of making them. The consistency between the two statements recorded at different hospitals, the absence of any motive for the deceased to falsely implicate the accused, and the corroboration provided by the nature and location of injuries described in the postmortem report at Exh.-17 lend strong credence and reliability to these declarations. Thus, they constitute direct, cogent and trustworthy evidence establishing that the accused was the person who inflicted the fatal knife blows, and the trial court rightly placed reliance upon them to hold the accused guilty under Section 302 IPC.

16. While the dying declarations provide a strong evidentiary foundation linking the accused to the crime, the surrounding circumstances of the incident cannot be overlooked while determining the appropriate classification of the offence. The record shows that the quarrel erupted suddenly from what began as mutual joking and exchange of abuses, with no prior enmity or premeditation on record. The accused is said to have become provoked only after the deceased refused to retaliate with similar abuses, leading to the impulsive act of pulling out the knife from his pocket and inflicting multiple blows in the heat of passion. The medical evidence, though confirming that injuries Nos. 3, 4 and 5 were grievous and sufficient in the ordinary course of nature to cause death, also reveals that several other wounds were comparatively less severe, and some were surgical in nature for treatment purposes. There is no material to indicate that the

accused took undue advantage of the situation or acted in a cruel or brutal manner beyond the sudden provocation. In these circumstances, while the act undoubtedly amounts to culpable homicide, the absence of clear evidence of pre-planned intention to cause death, coupled with the sudden quarrel and heat of passion, brings the case within the scope of Exception 4 to Section 300 IPC, thereby attracting punishment under Section 304 Part I IPC rather than Section 302 IPC.

16.1 The dying declarations, though reliable to prove the authorship of the injuries, do not by themselves elevate the offence to murder where the overall facts and circumstances demonstrate absence of the requisite intention to kill and presence of sudden provocation without premeditation.

Legal Proposition:-

17. In light of the principles laid down in **Rampal Singh V. State of U.P. 2012 8 SCC 289** while reiterating and drawing support from ***Virsa Singh v. State of Punjab [AIR 1958 SC 465 : 1958 Cri LJ 818]***, and as reiterated in the recent decision of the Hon'ble Supreme Court in ***Nandkumar @ Nandu Manilal Mudaliar v. State of Gujarat (2025 INSC 1302)***, the distinction between murder under Section 302 and culpable homicide not amounting to murder under Section 304 turns upon the presence or absence of intention has been succinctly dealt with and observed as under:

> **"19.** The difference was further elucidated in ***Rampal Singh v. State of U.P.,(2012)*** in the following words:
>
> "**18**. This Court in ***Vineet Kumar Chauhan v. State of U.P. [(2007) 14 SCC 660 : (2009) 1 SCC (Cri) 915]*** noticed that academic distinction between "murder" and

"culpable homicide not amounting to murder" had vividly been brought out by this Court in State of ***A.P. v. Rayavarapu Punnayya [(1976) 4 SCC 382 : 1976 SCC (Cri) 659]*** where it was observed as under: ***(Vineet Kumar case [(2007) 14 SCC 660 : (2009) 1 SCC (Cri) 915], SCC pp. 665-66, para 16)***

"16. … that the safest way of approach to the interpretation and application of Sections 299 and 300 IPC is to keep in focus the key words used in various clauses of the said sections. Minutely comparing each of the clauses of Sections 299 and 300 IPC and drawing support from the decisions of this Court in Virsa Singh v. State of Punjab [AIR 1958 SC 465 : 1958 Cri LJ 818] and Rajwant Singh v. State of Kerala [AIR 1966 SC 1874 : 1966 Cri LJ 1509] , speaking for the Court, R.S. Sarkaria, J. neatly brought out the points of distinction between the two offences, which have been time and again reiterated. Having done so, the Court said that wherever the court is confronted with the question whether the offence is 'murder' or 'culpable homicide not amounting to murder', on the facts of a case, it [would] be convenient for it to approach the problem in three stages. The question to be considered at the first stage would be, whether the accused has done an act by doing which he has caused the death of another. Proof of such causal connection between the act of the accused and the death, leads to the second stage for considering whether that act of the accused amounts to 'culpable homicide' as defined in Section 299. … If the answer to this question is in the negative the offence would be 'culpable homicide not amounting to murder', punishable under the First or the Second Part of Section Page 8 of 29 304, depending, respectively, on whether the second or the third clause of Section 299 is applicable. If this question is found in the positive, but the case comes within any of the Exceptions enumerated in Section 300, the offence would still be 'culpable homicide not amounting to murder', punishable under the First Part of Section 304 IPC. It was, however, clarified that these were only broad guidelines to facilitate the task of the court and not cast-iron imperative."

20. This Court in the aforesaid case of **Rampal Singh** (supra) further explained the difference between

> these two offences from the perspective of the punitive provisions of Sections 302 and 304 IPC by grading the offences in three categories as follows:
>
> "**21**.Sections 302 and 304 of the Code are primarily the punitive provisions. They declare what punishment a person would be liable to be awarded, if he commits either of the offences. An analysis of these two sections must be done having regard to what is common to the offences and what is special to each one of them. The offence of culpable homicide is thus an offence which may or may not be murder. If it is murder, then it is culpable homicide amounting to murder, for which punishment is prescribed in Section 302 of the Code. Section 304 deals with cases not covered by Section 302 and it divides the offence into two distinct classes, that is, (a) those in which the death is intentionally caused; and (b) those in which the death is caused unintentionally but knowingly. In the former case the sentence of imprisonment is compulsory and the maximum sentence admissible is imprisonment for life. In the latter case, imprisonment is only optional, and the maximum sentence only extends to imprisonment for 10 years. The first clause of Section 304 includes only those cases in which offence is really "murder", but mitigated by the presence of circumstances recognised in the Exceptions to Section 300 of the Code, the second clause deals only with the cases in which the accused has no intention of injuring anyone in particular. In this regard, we may also refer to the judgment of this Court in Fatta v. Emperor [AIR 1931 Lah 63] , 1151. C. 476 (Refer: Penal Law of India by Dr Hari Singh Gour, Vol. 3, 2009.)"

18. In the case on hand, the assault appears to have been triggered by a sudden quarrel, and the appellant acted under a wave of provocation and fury following the mutual exchange of abuses and the deceased's refusal to retaliate in kind. Though the multiple knife blows were fatal and inflicted on vital parts of the body, the absence of pre-planning or deliberation does subsist. The learned advocate for the appellant has strenuously tried to persuade this Court to hold that the case is covered by Exception 4

to Section 300 IPC : sudden fight in the heat of passion without premeditation. While we have carefully considered the said submissions, we are not inclined to accept that the facts fully satisfy all the ingredients of Exception 4, particularly in view of the number of blows and their targeting of vital regions. However, in the alternative, even considering the incriminating circumstances and the fact that the incident in question occurred in the spur of the moment without any prior enmity or motive, the overall circumstances strongly indicate that the act was committed under grave and sudden provocation in the heat of passion.

19. The medical evidence, particularly the postmortem report at Exh.-17 indicating multiple piercing injuries including deep stab wounds reaching the abdomen with tracts of 10-12 cm and 7 cm, partial cutting of ribs, perforation into pleural cavities with 300 ml bloody fluid, pus layers on lung and heart, and congested internal organs, establishes that the injuries were sufficient in the ordinary course of nature to cause death. Therefore, the appellant knew that inflicting repeated blows with a sharp knife on vital parts of the body was likely to cause death. Thus, the case falls squarely under Section 304 Part I IPC, where death is caused by an act done with the intention of causing such bodily injury as is likely to cause death or with the knowledge that it is likely to cause death. The dying declarations recorded by Dr. Rameshkumar Maganbhai Shah and Dr. Purvi Sheetalgiri Goswami, wherein the deceased, while conscious, specifically attributed the knife blows to the accused, are reliable and admissible under Section 32(1) of the Indian Evidence Act. However, these statements, though proving authorship of the injuries, do not reflect any motive or pre-planned design on the part of the accused to kill the deceased. It appears that the accused lost self-control due to the sudden quarrel and

acted in the heat of passion.

20. This Court after properly evaluating the mitigating circumstances hold that the ingredients as fall under section 299 of the IPC is to be satisfied so as to establish the offence amounting to murder under Section 302 IPC which in the case on hand seems to be lacking as discussed in preceding paragraph. However the circumstances, as established sudden provocation from mutual abusive exchange, absence of premeditation, impulsive pulling out of the weapon from the pocket, no prior enmity, and the act occurring in a fit of rage, fit within the well recognized category of culpable homicide not amounting to murder under Section 304 Part I IPC. The medical evidence, though confirming grievous and fatal nature of some injuries particularly Nos. 3, 4 and 5, does not conclusively establish a deliberate intention to cause death but clearly demonstrates knowledge that such acts were likely to cause death. The death after eight days of treatment at Ahmedabad Civil Hospital further supports the inference that the act stemmed from sudden anger rather than a calculated design to kill.

21. Furthermore, the act of the appellant is not one that resulted in instantaneous death. The deceased succumbed after undergoing treatment for about eight days, during which period he remained conscious enough to give consistent history statements to two different doctors. Although the injuries were serious and sufficient in the ordinary course of nature to cause death, the delayed death and the absence of evidence showing undue advantage taken by the accused or any cruel or brutal conduct strengthen the inference that the offence falls under Section 304 Part I IPC rather than Section 302 IPC. On a cumulative assessment of the evidence including the postmortem opinion, the dying declarations, the

hostility complainant, the recovery of the knife capable of causing such injuries, and the governing precedents, we are persuaded to alter the conviction from Section 302 IPC to Section 304 Part I IPC.

22. Considering the totality of the circumstances, including the nature of the sudden assault, the absence of premeditation, the heat of passion arising from mutual provocation through abusive language, the relationship between the parties, and the long passage of time since the incident, upon alteration of the conviction of the appellant to Section 304 Part I IPC as above, he has already undergone 8 years and 10 months of sentence. Thus, we sentence accused to the period already undergone by him with fine.

23. In the result, the appeal is partly allowed.

(a) The conviction of the appellant under Section 302 IPC is altered to one under Section 304 Part I IPC.

(b) The sentence of imprisonment for life is modified to the extent of rigorous imprisonment for 10 years.

(c) The fine amount and default sentence imposed by the Sessions court shall remain unaltered.

(d) The appellant shall be released only upon completion of 10 years of actual imprisonment from the date of his arrest, if not required in any other case.

(e) The bail bonds stand discharged.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

Kaushal Rathod

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: KAUSHAL MAHESHBHAI RATHOD(HCD0078), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 17/02/2026 12:43:14