

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL NO. 527 of 1996**

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STATE OF GUJARAT

Versus

PRAKASH @ PIDDU MITHUBHAI MULANI &amp; 1 other(s)

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Appearance:

MS. KRINA CALLA, APP for the Appellant(s) No. 1

DR. HARDIK K RAVAL(6366) for the Opponent(s)/Respondent(s) No. 1,2

HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1,2

NON BAILABLE WARRANT NOT RECEIVED BACK for the

Opponent(s)/Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

**HONOURABLE MR. JUSTICE M. R. MENGDEY****Date : 07/12/2023****FARAD****(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)**

The Hon'ble Court has dictated the Judgment today. The operative portion of the judgment is as under:

9. In these circumstances the Accused cannot be granted the benefit to the Exception to Section 300 of the IPC and the offence would not fall either under the provisions of Part-I of Section 304 or Part-II of Section 304 of the IPC.

10. The injury definitely was inflicted in such a manner which would attract the provisions of Clauses 2ndly & 3rdly to Section 300 of IPC. The Accused can be attributed with the knowledge that if in such circumstances in which the deceased was made helpless and the injuries inflicted on his vital part that would cut his veins of the neck, he would

definitely succumb to death. The intention of causing such injuries on the vital part of the body can be gathered from the act of the Accused as the physical movement of the deceased was totally restricted and confined and hence the Accused had all the opportunity to inflict the injury on the vital part i.e. on the neck of the deceased cutting of the veins. Thus, we reject the contention raised by the learned Advocate for the Accused to give him the benefit of Exception 300 of the IPC. We therefore convict the Accused Prakash @ Piddu Mithubhai Mulani for committing the murder of the deceased and the incident satisfies the provisions of Section 300 of IPC. Hence, the punishment which is prescribed under the provisions of Section 302 of IPC gets attracted. The Accused Prakash @ Piddu Mithubhai Mulani is convicted for the offence of murder and is sentenced to suffer life imprisonment.

11. At this stage, learned Advocate Dr. Hardik K. Raval for the Accused has suggested that some time may be given to the Accused to surrender.

11.1 Since the offence is of the year 1994 and we are recording the conviction of the Accused - Prakash @ Piddu Mithubhai Mulani after almost 30 Years, we grant the Accused - Prakash @ Piddu Mithubhai Mulani 21 days' time to surrender before the concerned Trial Court within a period of 21 days.

11.2 In case the Accused - Prakash @ Piddu Mithubhai Mulani fails to surrender before the concerned Trial Court within the stipulated time period, the concerned Trial Court shall undertake necessary procedure to procure his presence.

11.3 The Accused - Prakash @ Piddu Mithubhai Mulani shall mark

his presence before the concerned Police Station once in 5 days till he surrenders before the concerned Trial Court.

J.N. WAGHELA

**PPS/PS**