



2026:UHC:4879-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Jail Appeal No. 92 of 2024

Vicky alias Mangal Singh

..... Appellant

Vs.

State of Uttarakhand

.....Respondent

Presence:

Mrs. Pushpa Joshi, learned Senior Advocate assisted by Mr. Rajat Joshi, learned counsel holding brief of Mr. Harshpal Sekhon, learned counsel for the appellant.
Mrs. Manisha Rana Singh, learned D.A.G. for the State.

Reserved on : 09.06.2026
Delivered on : 16.06.2026

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

(Per: Hon'ble Siddhartha Sah, J.)

This Criminal Jail Appeal has been preferred against the judgment and order dated 23.10.2024, passed by the learned Sessions Judge, Udham Singh Nagar in Sessions Trial No.130 of 2021, State of Uttarakhand Vs. Vicky alias Mangal Singh by means of which, the accused/appellant Vicky alias Mangal Singh has been convicted under Section 302 of the Indian Penal Code, 1860 (In short, "IPC") and has been punished with imprisonment for life and also with fine of Rs.20,000/- and in case of default in payment of fine, to undergo additional rigorous imprisonment for one year.

2. Present appeal emanates out of FIR, which has been registered at Police Station Bajpur, District Udham Singh Nagar on 18.03.2021 as FIR No. 0100 of 2021 under Section 302 of IPC with the allegations that the father of the informant, namely, Mohd. Rafi and the family work in Rana Farm and reside there. Yesterday evening at around 9:30, our neighbour Vicky son of Shankar Singh injured my father by hitting by danda, who died in Haldwani hospital at 12:00 O'clock at night. All the members of our family had gone to attend the marriage in Manpur Swar. Vicky has murdered my father. Report be lodged against him and action be taken. The said FIR was entered in the Thana vide GD entry No. 025 dated 18.03.2021 at 11:40.

3. Medical Examination Report dated 17.03.2021 reveals that just after the incident aforesaid, Mohd. Rafi, who had sustained certain injuries was rushed to CHC Bajpur, District Udham Singh Nagar and the medical examination was conducted at 9:00 p.m. on 17.03.2021 which records the history of fall over rock. The injuries noted in the medical examination report are- (i) Laceration (L) side of forehead about 10cm-15 cm long & 01 cm- 02 cm deep, (ii) Swelling over centre of forehead, (iii) Black eye (R) and (L) and (iv) Contusion (04 cm.-05 cm dia) over (L) parietal region and the opinion was injuries are probably caused due to hard and blunt object.

4. The inquest report/panchayatnama was prepared on 18.03.2021 and as per the opinion of the Panch witnesses, the death of Mohd. Rafi was caused due to the injuries sustained on the body. It is also pertinent to mention that in the description of the inquest report, it has *inter alia* been mentioned that the deceased was employed as driver of Tractor in Rana Farm, Bazpur for last 3-4 years and in the evening of 17.03.2021, he was in the farm at

around 7:30 and sustained injuries on account of falling on rock and he had consumed liquor.

5. The post-mortem of Mohd. Rafi was conducted at 12:30 p.m. on 18.03.2021. The post-mortem report mentions the following injuries on the body of the deceased- (i) Lacerated wound of size 3x1.5cm x scalp deep with contused swelling noted over left side of forehead 2cm above left eyebrow, (ii) Reddish abrasion of size 3x2cm, 2x1cm noted over left side of forehead, (iii) Black eye on both side noted, (iv) Reddish abrasion of size 2x1cm, 1x1cm noted over front of upper chest on left side, (v) Reddish abrasions of size 2x1cm, 1x1cm, 1x1cm, 4x1cm noted over posterior aspect of back on left side and (vi) Reddish abrasion of size 2x1cm noted just above left knee. All injuries are ante mortem in nature.

6. As per the opinion of the Doctor Chandra Prakash Bhansora, Professor, Department of Forensic Medicine, GMC Haldwani, the cause of death is due to shock and hemorrhage due to described head injuries sustained due to blunt impact force to head and the probably time elapsed between death and post-mortem was stated to be 12 to 24 hrs.

7. Following the registration of the FIR on 18.03.2021, the accused/appellant was arrested on 19.03.2021 at 2:00 p.m. and the information was sent to his wife Smt. Mandeep Kaur vide arrest information memo dated 19.03.2021. On the said date, he also made confession before the police wherein he confessed that Mohd. Rafi used to entertain a grudge against him and had been threatening him that he would get him ousted from the farm. On 17.03.2021, the entire family of Mohd. Rafi had gone to Manpur, Rampur (U.P.) to attend a marriage ceremony. Mohd. Rafi had

consumed liquor and was abusing and threatening him, which could not be tolerated by him. Mohd. Rafi came out of his room and was standing on the path and challenging him. Some persons intervened between the two but Mohd. Rafi again started abusing him. Mohd. Rafi was highly intoxicated. He picked up a thick popular danda and gave a powerful blow on the head of Mohd. Rafi, due to which, Mohd. Rafi fell unconscious and blood started oozing out from his nose, mouth and head. He was seen hitting Mohd. Rafi by his wife and many other persons and scolded him but by that time it was too late. He has thrown the danda used in the incident in the western direction of his room in Rana Farm which he can get recovered. Two passersby on a motorcycle were requested to take the injured Mohd. Rafi to hospital and they got ready for that and injured Mohd. Rafi was taken to doctor. The doctor stated the condition of Mohd. Rafi to be serious and advised to take somewhere else. He called the Munshi of the farm Banwari Lal and Banwari's son Shivam picked up the phone and he told Shivam that Mohd. Rafi has got injured being intoxicated and having fallen on a rock and to come immediately to Bengali Doctor, Bajpur and from there he and Shivam took Mohd. Rafi to Pandey Hospital Bajpur. Seeing the condition of Mohd. Rafi, no doctor admitted him. Then Mohd. Rafi was taken to Government Hospital Bajpur, where Medical Officer bandaged Mohd. Rafi and referred to higher centre. Then they reached Haldwani Hospital through 108 Ambulance where Mohd. Rafi died around 12:00 O'clock. The said confessional statement was recorded by the police on 19.03.2021.

8. On 19.03.2021 one thick wooden danda was recovered at the pointing out of the accused/appellant and recovery memo was prepared in the presence of the witnesses.

9. In the course of the investigation, the police also collected blood stained soil and plain soil from the place of incident and a memo was prepared. The site plan of the place of incident was prepared on 18.03.2021 and the site plan of the murder weapon (wooden danda) was prepared on 19.03.2021.

10. The Investigating Officer also submitted a letter to the Judicial Magistrate, Bajpur, District Udham Singh Nagar for passing order for sending the blood sample, murder weapon, wooden danda, blood soiled and plain mud, clothes of the deceased, blood soaked gauge etc. for forensic/DNA examination through special messenger to RFSL, Rudrapur. The same was permitted by the Judicial Magistrate vide order dated 27.05.2021.

11. After completion of the investigation, the charge-sheet was submitted by the Investigating Officer on 10.06.2021.

12. Case was registered against the accused as Sessions Trial No. 130 of 2021 in the Court of Sessions Judge, Udham Singh Nagar and on 27.10.2021, the Sessions Judge, Udham Singh Nagar framed the charge under Section 302 of IPC against the accused / appellant, who denied the charge and claimed trial.

13. PW1 Monish son of the deceased, stated that their family was residing in Rana Farm, Bajpur for last many years and his late father Mohd. Rafi was employed as Tractor driver in Rana Farm and their entire family used to work as farm labourers. On the date of incident, there was a marriage of a relative and except father Mohd. Rafi, the entire family had gone to attend a marriage and his father Mohd. Rafi was at home. Around 10:00 in the evening, the Munshi of Rana Farm, Shivam informed him over the phone that his father had a quarrel with Vicky alias Mangal Singh, Tractor driver of Rana

Farm due to which, the condition of his father was very serious and he was asked to come immediately. On receiving the information, they reached Rana Farm. They were told that his father has been taken to Sushila Tiwari Hospital, Haldwani. They reached there and came to know that his father died due to the injuries sustained in the fight. He got a tehriri report of the incident written by Vinod Singh, which he had signed and submitted in Thana, Bazpur. He identified his signatures on tehriri report and verified the same, which was marked as Exhibit P1. In the cross-examination, PW1 Monish admitted that there was no prior quarrel or fight with the accused nor there was any enmity.

14. PW2, Mangga is the eyewitness of the incident, who deposed that the incident occurred around 7:00 – 7:30 in the evening. Accused Vicky alias Mangal Singh and Mohd. Rafi were abusing each other. He tried to pacify them but both of them did not pay any heed. In the meantime, the accused Vicky alias Mangal Singh attacked indiscriminately on the head and body of Mohd. Rafi with thick wooden danda. Mohd. Rafi got injured and fell on the rock. He got injuries on the head, mouth and body and blood was oozing out from the head and mouth. Two persons who were going on a motorcycle on the spot, stopped there, who were known to the accused. The persons on the motorcycle asked the accused to take the injured to the hospital. Wife of the accused also told the accused that if Mohd. Rafi dies, he will be in jail, so to take Mohd. Rafi immediately to hospital. Then the accused took Mohd. Rafi to hospital making Mohd. Rafi sit in the middle. He also deposed that the accused Vicky alias Mangal Singh was apprehended by the police on the third day of the incident and have brought him to the place of incident in Rana Farm, then, the accused had brought a thick danda from his room around 6:00 in the evening and the

accused had informed the police that this is that poplar danda with which he had hit Mohd. Rafi, the danda was around 4.5 to 5 feet. In his cross-examination, PW2 Mangga admitted that there was no old enmity of the accused with the deceased. He also admitted that he did not give the information of the incident to anyone.

15. PW3, Ible Hassan, deposed that on 17.03.2021 when he reached Labour Colony of Rana Farm at around quarter to seven along with his friend Taufiq then he saw that Vicky @ Mangal Singh was holding a poplar danda in his hand and was threatening Mohd. Rafi that he will kill him today. Then he snatched the danda from Vicky @ Mangal Singh and threw it at his door and got Vicky @ Mangal Singh inside his house and told his wife not to let him go outside the house till his anger subsides and thereafter, they left. At around 2:00 at night on 17.03.2021, he received the information that Mohd. Rafi has died. In his cross-examination, the PW3 stated that the deceased used to consume liquor.

16. PW4, Smt. Sabri W/o Mohd. Rafi, *inter alia* deposed that Vicky @ Mangal Singh used to do foul play in the work whose complaint was made by her husband to the Farm owner. Thereafter appellant was terminated from the job due to which he used to entertain enmity against her husband. She too deposed about the family having gone to attend the marriage on the date of incident and her husband was alone at the Farm. In her cross-examination, she admitted that her husband used to consume liquor sometimes.

17. PW5 is retired H.C.P. Mahesh Singh, who was posted as H.C.P. in Medical College, Police Chowki, Haldwani on 17.03.2021. He prepared the panchayatnama/inquest report and identified his signatures, which was marked as Exhibit P-2. He proved the other

police papers and other documents, which were marked as Exhibit P-3, P-4 and P-5 respectively.

18. PW6 is another son of Late Mohd. Rafi and he deposed alike his brother PW1. In his cross-examination, he deposed that the accused/appellant used to entertain enmity with their family.

19. PW7, Shivam is the munshi at Rana Farm, who deposed that on 17.03.2021 between 8:15 p.m. to 8:30 p.m., Vicky called on his father's mobile phone. Shivam attended the call, whereupon Vicky informed him that Mohd. Rafi had sustained injuries after falling on a rock while under the influence of liquor and requested him to immediately reach the Bengali doctor. Acting upon the information, Shivam reached the Bengali doctor's clinic and found Mohd. Rafi lying unconscious with blood oozing from his nose and mouth, though he was still breathing. The Bengali doctor refused to treat him. On refusal of this doctor, they took Mohd. Rafi to Pandey Hospital, Bazpur, where treatment was also refused, following which he was taken to the Government Hospital, Bazpur where Mohd. Rafi was admitted at about 9:00 p.m. Mohd. Rafi was bandaged by the doctor and thereafter, he was referred to Sushila Tiwari Hospital, Haldwani. Subsequently, Mohammad Rafi was taken to Sushila Tiwari Hospital, Haldwani in 108 Ambulance by Shivam and accused Vicky @ Mangal Singh, where he was admitted for treatment.

He further deposed that during the course of treatment, Mohd. Rafi died at around 11:00 in the evening of 17.03.2021. In his cross-examination, he admitted that Vicky @ Mangal Singh himself had taken the injured Mohd. Rafi to the Bengali doctor and had informed him about the incident over the telephone. He further

admitted that Vicky @ Mangal Singh remained with him while Mohd. Rafi was being taken to various doctors for treatment. He also stated that after Mohd. Rafi was admitted to Sushila Tiwari Hospital, Vicky @ Mangal Singh stayed in the hospital throughout the night and left only the next morning. The witness further admitted that both he and Vicky @ Mangal Singh were making efforts to save the life of Mohd. Rafi and for that purpose, took him to different hospitals. He also stated that there had never been any prior quarrel or enmity between the accused Vicky @ Mangal Singh and the family of the deceased Mohd. Rafi and they had good relations.

20. PW8, Dr. Chandra Prakash Bhaisoda deposed that on 18.03.2021, he was posted as M.D. Professor, Department of Forensic Medicine, Government Medical College, Haldwani, District Nainital. On the same day, he conducted the post-mortem examination on the dead body of Mohd. Rafi and found the injuries on his person, as detailed in the post-mortem report. Inter-alia he also stated in his opinion cause of death is due to shock and hemorrhage due to head injury. These injuries could be caused by wooden danda. He proved the post-mortem examination report, which was marked as Exhibit P-6. In his cross-examination, he stated that the external injuries mentioned at Serial Nos. 2 to 6 can be caused by falling down on rock. He further stated that if injuries were caused by a danda (stick), their appearance would ordinarily be linear in nature.

21. PW9, S.I. Dinesh Chand Joshi deposed that on 18.03.2021, he was posted at Kotwali Bazpur. He proved the GD entry regarding receipt of the FIR and the Chik FIR, both bearing the signatures of the then In-charge Inspector Sanjay Kumar Pandey,

with whom he had been posted and whose signatures he identified. The GD entry and the Chik FIR were marked as Exhibit P-7 and Exhibit P-8 respectively.

22. PW10, Dr. Barkha Singh deposed that on 17.03.2021, she was posted at the Community Health Centre, Bazpur, District Udham Singh Nagar. On that date, injured Mohd. Rafi was brought to the hospital by his friend Shivam at about 9:00 p.m. in an unconscious state. Upon examination, she noted the injuries mentioned in the medical examination report. She proved the examination report prepared at Community Health Centre, Bazpur, which was marked as Exhibit P-9.

23. PW11, Subodh Saxena deposed that since 2008 he had been posted as Block Lekhakar at CHC, Bazpur. He proved Register Entry Serial No.9 dated 17.03.2021 pertaining to Mohd. Rafi, recorded at 9:00 p.m. He also produced a certified photocopy of the relevant register entry, which was compared with the original register brought by him and was marked as Exhibit P-10. In his cross-examination, he stated it to be correct that the cause of injury recorded in Exhibit P-10 was “fall over a rock while running.”

24. PW12, Jasvinder Singh, the Investigating Officer, deposed that on 18.03.2021, he was posted as S.S.I. at Kotwali, Bazpur, and he had received the investigation of the case. He proved the documentary evidence marked as Exhibit P-11 to P-25 respectively.

He also deposed that he had collected the other evidence and recorded the statements of the witnesses. After collecting the entire evidence, he submitted charge-sheet against accused Vicky @ Mangal Singh under Section 302 of the IPC in the court, which he proved and which was marked as Exhibit P-26. In his cross-

examination, he admitted that prior to the incident there is no report of any altercation or fight between the deceased and the accused Vicky @ Mangal Singh at the Police Station. He also admitted that, as per the memo issued by S.T.H. Haldwani, he had recorded the fact in the case diary that the injured fell down after colliding on a rock outside his house; the patient had consumed liquor. During the course of treatment, he died.

25. PW13 is Prakash Chandra, who was posted as Sub-Inspector at Kotwali Bazpur on 18.03.2021. He proved the memo relating to the seizure of blood-stained soil and plain soil, which was marked as Exhibit P-27. He also proved G.D. Entry No.29 dated 18.03.2021, which was marked as Exhibit P-28.

26. PW14 is Smt. Shashi Prabha Tomar, retired Joint Director, FSL Dehradun. She proved the FSL examination report, which was marked as Exhibit P-29.

27. The accused was examined under Section 313 Cr.P.C., wherein he substantially denied the incriminating material/evidence put up against him and contended that the evidence was false. He further contended that he is innocent; he had no enmity with the family of the deceased, and had been falsely implicated. He stated that he remained in the hospital throughout the night to help the deceased Mohd. Rafi and returned along with the deceased's family members. According to him, the deceased had fallen on a rock while under the influence of liquor, and he had pointed out the said rock to the police.

28. The trial court convicted the appellant under Section 302 of IPC and sentenced him to imprisonment for life along with a fine

of ₹ 20,000/- vide judgment and order dated 23.10.2024. Aggrieved thereby, the present appeal has been preferred.

29. Assailing the aforesaid impugned judgment and order, the learned Senior Counsel for the appellant would submit that the deceased died on account of falling on a rock. In fact, the accused Vicky @ Mangal Singh informed the PW7, Shivam that the deceased Mohd. Rafi had fallen on a rock. The PW1 had admitted that the accused had no enmity or quarrel with the deceased Mohd. Rafi.

30. Learned Senior Counsel for the appellant would submit that prosecution case is totally false and the prosecution has not been able to prove the case beyond reasonable doubt.

31. Referring to the deposition of PW2, learned Senior Counsel for the appellant would submit that PW2 has narrated the incident having occurred between 7:00 and 7:30 p.m. Although PW-2 claimed to have been present at the spot and to have witnessed that the appellant had hit on the head of the deceased with a thick danda, but in his cross-examination, he admitted that he did not inform anyone about the alleged incident. It was argued that such a conduct of PW2 is wholly unnatural and casts serious doubt on the very presence of PW-2 at the place of occurrence. Thus, it was submitted that the testimony of PW2 is unreliable and unworthy of credence, and no reliance can safely be placed upon it.

32. Learned Senior Counsel for the appellant would further submit that PW3, Ible Hasan, has deposed that Vicky @ Mangal Singh was holding a danda and was threatening the deceased Mohd. Rafi for life and he had snatched the danda from him. She would submit that such a conduct of PW3 is again not natural and she

would submit that the presence of both PW2 and PW3 at the place of incident is highly doubtful.

33. Learned Senior Counsel for the appellant would further submit that PW4, wife of deceased, has admitted in her cross-examination that the deceased used to consume liquor.

34. Learned Senior Counsel for the appellant, while referring to the statements of PW8, Dr. Chandra Prakash Bhaisoda, would submit that there is only one grievous injury on the head of the deceased and that the injury nos.2 to 6 can be sustained by falling on a rock.

35. Learned Senior Counsel for the appellant would further submit that no blood has been found on the danda which makes the prosecution case highly doubtful.

36. Learned Senior Counsel would also submit that the incident has occurred in a spur of moment and there was no intention to cause death of the deceased Mohd. Rafi and thus the accused/appellant could not have been convicted under Section 302 of IPC but only under Section 304 Part II IPC. She would also submit that the sanctity of the eyewitnesses is doubtful while referring to the site plan of recovery of danda.

37. Learned Senior Counsel would further submit that the recovery of danda is from open place and as such no reliance can be placed upon the same. She would further submit that the accused made all efforts to save the life of the deceased, hence there is no question of convicting the accused under Section 302 of IPC,

38. The learned counsel for the appellant would submit that since there is single injury which would lead to the inference of guilty knowledge and that the prosecution has not been able to prove its case beyond reasonable doubt and thus contended that the impugned judgment and order cannot be sustained and deserves to be set aside, and in the alternative submitted that the conviction be altered from one under Section 302 of IPC to Section 304 Part II of IPC in the peculiar facts and circumstances of the case.

39. *Per contra*, Mrs. Manisha Rana Singh, learned Deputy Advocate General for the State would submit that the prosecution witnesses are consistent in their statements. PW3, Ible Hasan has, in fact, made a very natural statement that when the deceased and the accused were quarrelling and the accused/appellant was holding a danda, he was made to go inside his home which confirms that there was a quarrel, therefore, the deposition of PW2 and PW3 are thus consistent.

40. Learned Deputy Advocate General for the State would further submit that it was the version narrated by the accused/appellant himself to the PW7, Shivam that the deceased fell on a rock and as such the same got recorded in the medical examination reports and the same cannot be relied upon. With regard to the submission made on behalf of the learned Senior Counsel for the appellant that the fatal blow on the head would be covered under Section 304 Part II of IPC and not under Section 302 of IPC, learned Deputy Advocate General for the State would submit that accused/appellant had attacked on a vital part of the body of the deceased with danda and as such the intention can be gauged from the said attack. Therefore, the case would fall under Section 302 of IPC and not under Section 304 Part II of IPC.

41. Learned Deputy Advocate General for the State would also submit that, as per the FSL report, the same DNA was found on the hair stuck to Exhibit-1 (danda) and on the T-shirt of the deceased, Mohd. Rafi. The FSL report, therefore, duly corroborates the prosecution version.

42. After hearing the rival submissions of the learned counsel for the parties and upon perusal of the record, this Court finds that the arguments advanced on behalf of the appellant that the death of the deceased occurred due to his falling on a rock, while being highly intoxicated cannot be accepted. It is evident from the testimony of PW2, an eyewitness to the occurrence, that the accused struck the deceased, Mohd. Rafi, on the head with a wooden danda. The said testimony finds corroboration from the medical evidence on record i.e. the post-mortem report.

43. After examining the statements of PW2 and PW3, it is clear that there is no infirmity in the testimonies of these prosecution witnesses. PW2 has given a clear and consistent account of the manner in which the incident actually occurred. There is nothing on record to disbelieve his testimony, particularly as it stands corroborated by the medical evidence.

44. The deposition of PW3 is also natural and credible. He has deposed only to what he actually saw and did, and has stated that he tried to pacify the accused-appellant. No material inconsistencies are found in the statements of PW2 and PW3.

45. In fact, a close reading of their testimonies leads to the irresistible conclusion that a quarrel did take place between the accused/appellant and the deceased, and the blow inflicted by the

accused/appellant with the wooden danda on the head of the deceased, Mohd. Rafi, was, in fact, the cause of his death.

46. The confession made by the accused-appellant also led to the recovery of the murder weapon, namely, the wooden danda. Therefore, no doubt can be entertained regarding the said recovery, especially since the medical evidence and the testimony of PW8 clearly establish that the injuries found on the body of the deceased could have been caused by a wooden danda. PW8 categorically stated that the death of the deceased occurred due to the head injury, resulting in shock and hemorrhage.

47. In the present case, it will be useful to refer to the judgment of the Hon'ble Supreme Court in the case of "Anbazhagan v. State of T.N.", (2024) 20 SCC 500 and particularly paragraph nos.24, 27, 28, 34 and 66.13 thereof, since in the present case there is only one injury to the head which has been cause of death. Paragraph nos. 24, 27, 28, 34 and 66.13 thereof is being extracted hereunder for ready reference:-

"24. Bearing in mind the test suggested in the aforesaid decision and also bearing in mind that our legislature has used two different terminologies "intent" and "knowledge" and separate punishments are provided for an act committed with an intent to cause bodily injury which is likely to cause death and for an act committed with a knowledge that his act is likely to cause death without intent to cause such bodily injury as is likely to cause death, it would be proper to hold that "intent" and "knowledge" cannot be equated with each other. They connote different things. Sometimes, if the consequence is so apparent, it may happen that from the knowledge, intent may be presumed. But it will not mean that "intent" and "knowledge" are the same. "Knowledge" will be only one of the circumstances to be taken into consideration while determining or inferring the requisite intent.

27. Thus, while defining the offence of culpable homicide and murder, the framers of IPC laid down that the requisite intention or knowledge must be imputed to the accused when he committed the act which caused the death in order to hold him guilty for the offence of culpable homicide or murder as the case may be. The framers of IPC designedly used the two words "intention" and "knowledge", and it must be taken that the framers intended to draw a distinction between these two expressions. The knowledge of the consequences which may result in the doing of an act is not the same thing as the intention that such consequences should ensue. Except in cases where mens rea is not required in order to prove that a person had certain knowledge, he "must have been aware that certain specified harmful consequences would or could follow." (Russell on Crime, Twelfth Edn., Vol. 1 at p. 40.)

28. This awareness is termed as knowledge. But the knowledge that specified consequences would result or could result by doing an act is not the same thing as the intention that such consequences should ensue. If an act is done by a man with the knowledge that certain consequences may follow or will follow, it does not necessarily mean that he intended such consequences and acted with such intention. Intention requires something more than a mere foresight of the consequences. It requires a purposeful doing of a thing to achieve a particular end. This we may make it clear by referring to two passages from leading textbooks on the subject.

34. Sections 299 and 300IPC deal with the definition of “culpable homicide” and “murder”, respectively. In terms of Section 299, “culpable homicide” is described as an act of causing death: (i) with the intention of causing death, or (ii) with the intention of causing such bodily injury as is likely to cause death, or (iii) with the knowledge that such an act is likely to cause death. As is clear from a reading of this provision, the former part of it emphasises on the expression “intention” while the latter upon “knowledge”. Both these are positive mental attitudes, however, of different degrees. The mental element in “culpable homicide”, that is, the mental attitude towards the consequences of conduct is one of intention and knowledge. Once an offence is caused in any of the three stated manners noted above, it would be “culpable homicide”. Section 300IPC, however, deals with “murder”, although there is no clear definition of “murder” in Section 300IPC. As has been repeatedly held by this Court, “culpable homicide” is the genus and “murder” is its species and all “murders” are “culpable homicides” but all “culpable homicides” are not “murders”. (See *Rampal Singh v. State of U.P.* [Rampal Singh v. State of U.P., (2012) 8 SCC 289 : (2012) 3 SCC (Cri) 860])

66.13. In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II IPC.”

48. It is quite clear that the prosecution has proved its case beyond reasonable doubt. The only question that remains for consideration is whether the offence committed by the accused/appellant falls within the ambit of Section 302 of IPC or whether, having been committed in the heat of the moment, without premeditation and without any intention to cause death, it would instead fall within the ambit of Section 304 Part II IPC.

49. A perusal of the record as well as the medical evidence reveals that PW8, the doctor who conducted the post-mortem examination, has categorically stated that the injuries sustained by the deceased Mohd. Rafi could have been caused by wooden danda.

50. The law on this aspect has been elaborately considered by the Hon'ble Supreme Court in the judgment Anbazhagan (supra), wherein the distinction between an offence punishable under Section 302 IPC and one falling under Section 304 Part II IPC has been clearly explained. The relevant paragraphs thereof have already been extracted hereinabove.

51. From the evidence on record, it appears that on the evening of 17.03.2021, a sudden fight took place between the accused/appellant and Mohd. Rafi, which led to the appellant, Vicky @ Mangal Singh, inflicting the aforesaid fatal blow on the head of the deceased, Mohd. Rafi. It is apparent that, although the appellant had the knowledge that such a blow could prove fatal, the intention to cause death cannot be conclusively inferred from the facts and circumstances of the case.

52. Moreover, the case appears to fall within Exception 4 to Section 300 IPC, as the occurrence arose out of a sudden fight and there is nothing on record to indicate that the appellant acted in a cruel or unusual manner or took undue advantage.

53. In view of the aforesaid discussion, this Court is of the view that the conviction under Section 302 of IPC deserves to be altered to Section 304 Part II IPC.

54. The appellant Vicky @ Mangal Singh is convicted under Section 304 Part II IPC.

55. Having considered the nature of offence, its origin and other attending factors, we are of the view that the sentence of 7 years rigorous imprisonment under Section 304 Part II IPC would serve the interest of justice. Consequently, the appellant Vicky @

Mangal Singh is sentenced to rigorous imprisonment for a period of 7 years under Section 304 Part II IPC.

56. The appeal is partly allowed.

57. The impugned judgment and order dated 23.10.2024 is modified to the extent as aforesaid.

58. It has been brought on record that the appellant has already undergone approximately five years of incarceration. He will serve the remaining part of the modified sentence in accordance with law.

59. Let a copy of this judgment along with the original records be sent to the trial court concerned.

(Siddhartha Sah, J.)
16.06.2026

(Ravindra Maithani, J.)
16.06.2026

Shiv/