

Nabia Bai

Vs

State of M.P.

Criminal Appeal No.334 of 1980

(Kuldip Singh, R.M. Sahai JJ)

29.11.1991

JUDGEMENT

R.M. SAHAI, J.:-

1. The appellant was convicted under Section 304, Indian Penal Code by the trial judge and was sentenced to undergo rigorous imprisonment for 7 years. The trial judge held that while one Phulia and her two daughters i.e. the appellant and one another were weeding their crop when deceased Ganga Ram happened to pass through the neighbouring field. According to prosecution on seeing him Nabia (appellant) abused him whereupon the deceased came protesting and grappled with the three. During the course of altercation the appellant snatched the knife from the hand of deceased and gave him a number of blows which resulted in his death. The doctor who examined the injuries of the deceased also examined the appellant and found that she had incised wound over her right forearm and two superficial cuts on her chin and midial aspect of the middle phallanx of the middle finger. The mother had one incised wound on right hand and two contusions. Even the other sister had two superficial cuts. According to appellant the deceased after throwing the appellant down on the ground had sat on her chest and assaulted her with knife compelling the appellant to call her mother and sister who were also injured. The appellant was convicted on the testimony of eyewitnesses. The High Court found that due to some exchange of hot words between the deceased and appellant there was grappling and while this was going on the appellant managed to get hold of the knife held by the deceased and in a fit of passion inflicted injuries on him which resulted in his death. The High Court also observed while considering the question of sentence that in all probability it was the deceased who himself had gone to the place of incident to invite trouble and the appellant was not armed.

2. We have heard the learned counsel for parties. From what has been narrated above it is abundantly clear that the appellant neither had any motive nor had any intention to kill the deceased. She only wanted to save herself from an armed intruder who had inflicted knife injuries on her. We are satisfied that the appellant acted in her right of self defence.

3. In the facts and circumstances of the case we agree that the learned counsel for appellant that the appellant is entitled to be acquitted.

4. In the result this appeal succeeds and is allowed. The appellant is acquitted. Her bail bonds are discharged.

Appeal allowed.

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