

Trilok Singh

Vs

State (Delhi Administration)

Criminal Appeal No. 181 of 1980

(K. Jayachandra Reddy, R. C. Patnaik JJ)

31.01.1992

### JUDGEMENT

1. The appellant was tried for an offence of causing the murder of Sunder. The trial Court acquitted him of the charges under Ss. 302 and 307 of the I.P.C. and Section 27 of the Indian Arms Act, 1957 by giving the benefit of right of private defence. The State preferred an appeal and the High Court disagreed with the verdict of the Sessions Judge convicted the appellant under Section 302, I.P.C. and sentenced him to undergo imprisonment for life and one year's R.I. under Section 27 of the Indian Arms Act.

2. It is a case where much of the prosecution case is not in dispute. The deceased is the brother of P.W. 25 (Ranjit Singh). The deceased and accused live in the vicinity. It is alleged that the deceased used to receive love letters from the sister of the accused and because of that there was hostility between the accused and the deceased. P.W. 24 is another brother of the deceased. On 1-7-76 at about 8.30 P.M. the sister of P.W. 24 sent him to take out Anil, son of P.W. 25, for a while. It is alleged that when P.W. 24 went to that place he found the appellant-accused quarreling with the deceased. Then P.W. 24 went to the house back and reported the matter to P.W. 25, who went to the place where the accused and deceased were quarreling. Seeing P.W. 25 the appellant ran to his own house and brought a knife and inflicted blows on the deceased as well as on P.W. 25. The deceased and P.W. 25 were taken to the hospital but in the meanwhile the deceased expired. Necessary medical aid was given to P.W. 25. A report was given to the Police. The case was registered and necessary investigations were made. P.W. 25 was treated for some time by the Doctor. The accused had an injury in the left eye and he was also treated by the Doctor. After completion of the investigation the charge sheet was laid.

3. The accused denied the offence. However, he gave an explanation as to how he as well as the deceased and P.W. 25 happened to receive injuries. He stated that P.W. 25 was of bad character and a dare devil. On the date of occurrence P.W. 25 came with a dagger at his house. As soon as he came out of his house P.W. 25 attacked him with the dagger. He put the deceased in between with the result the dagger hit the deceased on his chest. In order to save himself he caught hold of Ranjit's arm and snatched the dagger from him. P.W. 25 advanced towards him to kill him by snatching the dagger which struck in his abdomen. He, therefore, fled from the spot. He also further stated that he has lost his left eye and he is putting an artificial eye.

4. From the above narration it can be seen that the presence of the accused, deceased, P.W. 24 and P.W. 25 at the scene is not in dispute. While according to the prosecution the accused went inside the house and brought a knife and stabbed the deceased as well as P.W. 25. The version of the accused is that P.W. 25 was initially armed with the knife and tried to stab him, the deceased in

between received the blow given by P.W. 25 which fell on the chest of the deceased and resulted in a fatal injury. The trial Court held that there was a reasonable apprehension on the part of the accused that death was likely to be caused on him and, therefore, he was right in protecting himself by causing the death of the deceased as well causing injury to P.W. 25 and, therefore, he was entitled to the benefit of self-defence.

5. The learned Judges of the High Court have after a detailed discussion of the entire evidence reached the conclusion that the version given by the accused is such that it cannot be accepted and the prosecution evidence established that the murder was committed intentionally by the accused and therefore there was no right of private defence. Thus the whole question lies in the narrow compass.

6. We have gone through the entire evidence of P.W. 24 and P.W. 25. The evidence of P.W. 24 is to the effect that he saw the accused and the deceased were quarrelling and he went to the house and informed P.W. 25. In the cross-examination of P.W. 25 we find that he was involved in some other crimes. He on being informed by P.W. 24 went to the scene of occurrence and at that juncture it was reasonable for the accused to apprehend some danger would be caused to him. It cannot, therefore, be said that there was no apprehension at all on his part, Having seen these two brothers and in the background of the previous enmity and the aggressiveness of P.W. 25 it is but natural for the accused to apprehend that there was every likelihood of causing some hurt to him. In such a situation even if it is alleged by the prosecution that the accused went and came back with a knife and inflicted injury, even then it cannot be said that he did not act in exercise of the right of private defence. In the circumstances when the deceased and P.W. 25 came together aggressively against him, it was but natural to the accused to apprehend that they would definitely cause some hurt to him. Therefore, we are satisfied that the accused inflicted injury in exercise of his right of self-defence. But the question is whether he could go to the extent of causing the death. No doubt in a situation like this it cannot be expected that the accused has to modulate his right of self-defence. But when he went to his house and brought a knife and caused the death it cannot be said that he did not exceed the right of private defence. We cannot give the benefit to the appellant under Section 100, I.P.C. and the act committed by him only attracts exception to Section 300, I.P.C. Therefore the offence committed by him could be one under Section 304, Part I, I.P.C.

7. We set aside the conviction under Section 302, I.P.C. and the sentence of imprisonment for life awarded to the appellant. Instead we convict him under Section 304, Part I, I.P.C. Taking into consideration all circumstances of the case and also the fact that the accused had an injury and he has lost his left eye we think the sentence of two years will meet the ends of justice and accordingly he is sentenced to two years' R. I.

8. The criminal appeal is disposed of accordingly. Order accordingly.

</html