
(1979) 03 SC CK 0019
In the Supreme Court Of India
Case No : Criminal Appeal No. 208 of 1973

Abdul Waheed	Vs	APPELLANT
The State of Maharashtra		RESPONDENT

Date of Decision : 06-03-1979

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 304, 324

Citation : AIR 1979 SC 1828 : (1979) 3 SCC 477

Hon'ble Judges : S. Murtaza Fazal Ali, J;A.D. Koshal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S. Murtaza Fazal Ali, J.—In this appeal by special leave, the Appellant has been convicted u/s 302 and sentenced to imprisonment for life and fine of Rs. 100/-. He has also been convicted u/s 324 and sentenced to one year's R.I. and fine of Rs. 100/-. We have gone through the judgment of the Sessions Judge and we find that it has given cogent reasons for believing the prosecution case and rejecting the defence version. The High Court dismissed the appeal summarily but as some of the accused had injuries on their person, prima facie, the matter required further investigation and that is why special leave appears to have been granted by this Court. As this appeal is more than six years old, we have instead of remanding the case examined the evidence ourselves and after examining the same we find ourselves in complete agreement with the view taken by the learned Sessions Judge.

2. Mr. Hardev Singh, vehemently, argued that in view of the serious injuries present on the accused persons particularly accused No. 1, the Sessions Judge should have accepted the defence version. The genesis of the defence case was that there was a grazing dispute in the field of the Appellant which led the deceased to assault the Appellant and in the course of the mutual scuffle, the deceased was given a knife blow which resulted in his death. Although F.I.R. was lodged by the defence, there was nothing to show that the investigating officer

was taken to the field to find out whether any grazing incident had taken place or not. Furthermore, P. Ws. 1, 3, 4 and 5 have proved the case against the accused as eye-witnesses and out of them P.W. 1, Shekh Chand, is an absolutely independent witness, hence there is no reason to distrust his evidence. It may be, as the Sessions Judge has pointed out, that after the Appellant caused the murder of the deceased, there may have been mutual scuffle by way of reprisal and some of the accused were assaulted in that incident. That is why the Appellant lodged his F.I.R. more than an hour after the F.I.R. lodged by the complainant. Having gone through the medical evidence and the defence evidence, we are not satisfied that the defence came out in this case with the true version.

3. It was then contended by Mr. Hardev Singh that the case against the Appellant was false u/s 304 and not u/s 302. We are however unable to agree with this contention as the nature of the injury inflicted by the Appellant on the deceased by a weapon like knife which was as much as 3" deep manifestly and clearly intended to kill the deceased, and that too on some very paltry matter, that is to say, the refusal of the deceased Papa Khan to supply goods to the Appellant on credit. In the circumstances, therefore, we think that the Sessions Judge was right in convicting the Appellant u/s 302 I.P.C. For these reasons, there is no merit in the appeal which is accordingly dismissed.