
(1973) 11 SC CK 0039

In the Supreme Court Of India

Case No : Criminal Appeal No. 157 of 1970

Dattu Genu Gaikwad

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 23-11-1973

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : AIR 1974 SC 387 : (1974) CriLJ 446 : (1974) 3 SCC 678 : (1974) SCC(Cri) 208

Hon'ble Judges : Y. V. Chandrachud, J; M. Hameedullah Beg, J

Bench : Division Bench

Final Decision : dismissed

Judgement

Y.V. Chandrachud, J.—The appellant admitted before the learned Sessions Judge, Sholapur, that he assaulted Nagnath with the handle of a hunter which led to Nagnath's death. He, however, pleaded that Nagnath and the eye-witness Ramesh had rushed on him with an axe driving him to retaliate in self-defence. The learned Sessions Judge accepted the testimony of Ramesh, disbelieved the defence, convicted the appellant u/s 302, Penal Code, and sentenced him to suffer imprisonment for life. The High Court, Bombay, dismissed the appeal against that judgment summarily without recording any reasons. This appeal by special leave is directed against that order.

2. This Court has held in more than one case that though the High Courts possess the power to dismiss criminal appeals summarily, appeals involving serious or substantial questions which are prima facie arguable should not be dismissed summarily, without recording brief reasons in support of the order of dismissal. See *Shyam Deo Pandey and Others Vs. The State of Bihar*, and the cases referred to therein). Having considered the facts and circumstances of this case we do not think that it is possible to bring this case within that rule.

3. The evidence of Ramesh (P.W. 8) and Machhindra (P.W. 9) establishes beyond the measure of a doubt that on the evening of April 2, 1969, the appellant beat

Nagnath mercilessly with the handle of a hunter. There is not one circumstance which even charitably can be construed to confer the right of self-defence on the appellant Nagnath asked the appellant a rustic question inquiring whether the appellant had kept buffaloes for drinking milk and this was enough excuse for the appellant to beat Nagnath to death. The true reason for the assault seems to be that a month or so before the incident Nagnath had attempted to outrage the modesty of the appellant's wife, Hirakani. The interval between that incident and the assault on Nagnath is too long to afford to the appellant the benefit of the plea of grave and sudden provocation.

4. The evidence of, Dr. Shiva-ppa Shankar Hingmire shows that Nagnath had as many as 12 injuries on his person and that injury No. 11 on the scrotum was sufficient in the ordinary course of nature to cause death.
5. There is therefore no substance in the appeal and the same must be dismissed.