

(2018) 07 DEL CK 0234
In the Delhi High Court
Case No : CRL.A. 155 OF 2003

Manoj Kumar @ Dhilla @APPELLANT@Hash State (Nct Of Delhi)

Date of Decision : 16-07-2018

Acts Referred:

Indian Penal Code 1860 — Section 300, 302, 300I

Citation : (2018) 07 DEL CK 0234

Hon'ble Judges : S. MURALIDHAR, J; VINOD GOEL, J

Bench : Division Bench

Judgement

Dr. S. Muralidhar, J.:

1. This is an appeal directed against the order dated 26th February 2003 passed by the learned Additional Sessions Judge in SC No.4/2000 arising out

of FIR No.1004/1999 registered at PS Sultanpuri convicting the Appellant for the offences punishable under Section 302 IPC and the order on

sentence dated 27th February 2003 by which the Appellant was sentenced to undergo rigorous imprisonment for life along with fine of Rs.10,000/- and

in default of payment of fine, to undergo simple imprisonment for three years.

2. The charge against the Appellant was that on 15th September 1999, at around 7:15 pm, he had committed the murder of the deceased Jaswant @

Mannu by inflicting knife injuries on the left side of his chest.

3. There were three purported eye witnesses to the incident, namely Satvir Singh (PW-5), Dev Raj (PW-8), and Anil Kumar (PW-9). During the trial,

PWs- 8 and 9 turned hostile and declined to support the case of the prosecution. The prosecution, therefore, heavily relied upon the evidence of Satvir

Singh (PW-5) who stated that on the fateful day, he was present in his house when he heard a quarrel taking place at a distance of 10 paces from his

house. He noticed the exchange of hot words taking place between the Appellant

and the deceased, who happened to be his neighbor. He then saw the Appellant taking out a knife from the dub of his pant and gave a knife blow on the left side of the chest of the deceased and immediately thereafter, started running from the spot. However, when an alarm was raised, the Appellant appears to have been apprehended on the same day itself.

4. The post mortem examination was conducted by Dr. K. Goel (PW-14) on the same day. He noticed one incised penetrating wound 2.2 cm x 1 cm placed over left front of the chest which had cut the subcutaneous tissues and muscles cleanly, continued through the left sixth intercostals space, entered into the chest cavity, pierced the pericardium and penetrated the left ventricular valve. The size of the wound in the ventricle was about 1.5 cm. His opinion was that the said injury was sufficient in the ordinary course of nature to cause death.

5. Therefore, the death of the deceased was clearly homicidal and the eye-witness PW-5 has proved that the fatal injury was caused by the Appellant. The only question that remains is the nature of the offence. From the evidence of PW-5, it appears that there was a heated exchange of words between the Appellant and the deceased immediately prior to the stabbing. The assault on the person of the deceased was, therefore not premeditated. It took place on the spur of the moment in a sudden fight and the evidence reveals that only one knife blow had been dealt to a non-vital part of the victim's body. Thus, Exception 4 to Section 300 stands attracted and the Court is, therefore, persuaded to hold that the offence is one of culpable homicide not amounting to murder punishable under Section 304, Part I IPC.

6. The incident took place in 1999 and considering that the Appellant was, at that point in time, aged approximately 17 years and 8 months, and had no previous criminal record, the Court confines the sentence awarded to the Appellant to the period of imprisonment already undergone by him, i.e. 5 years and 6 months. As a result, the personal bond and surety bond furnished by the Appellant stand discharged.

7. The appeal is disposed of.

8. The concerned SHO will communicate to the Appellant the present order forthwith.