

## **Ram Phal And Others vs State Of Haryana on 2 February, 1993**

**Equivalent citations: AIR1993SC1979, 1993CRILJ2603, 1993SUPP(3)SCC740, AIR 1993 SUPREME COURT 1979, 1993 AIR SCW 2187, 1993 (3) SCC(SUPP) 740, 1993 SCC(CRI) 1115, 1993 JT (SUPP) 507, (1993) 3 RECCRIR 276**

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**Bench: N.P. Singh**

### **JUDGMENT**

1. This is one of those rather few cases where on both sides women also violently participated and inflicted injuries mutually. Originally there were six appellants i.e. A-1 to A-6 and among them A-2 Chander died. The cases arises out of an occurrence which took place on 20-5-81 in the abadi of Village Hassanpur, District Gurgaon. In the course of this occurrence one Sant Ram received a blow on the head resulting fatally in the fracture of the skull bones. Besides him, two ladies P.W. 9 and P.W. 10 also received injuries. On the side of the accused A-1 (Ram Phal) received 10 injuries, A-3 (Satbir) received 6 injuries and three ladies A-4 to A-6 received 6, 5 and 2 injuries respectively. A report was given to the Police by both the sides. On the death of Sant Ram a case under Section 302, I.P.C. was registered. The inquest was held on the dead body and it was sent for post-mortem. The doctor (P.W. 8) who conducted the post-mortem noticed only one injury namely a lacerated wound on the right side of the head 6 1/2 cm. x 1 cm. bone deep. Anterior limb of the wound was 10 cms. away from the eyebrow which resulted in the fracture of right frontal, right parietal and temporal bones. The doctor opined that death was due to shock and haemorrhage of skull bones. As mentioned above the injured witnesses as well as accused were examined by the doctors and medical certificates were issued. All of them had fairly good number of injuries though simple. There were also some incised wounds. Injuries on some of them were on vital organs. The prosecution mainly relied on the evidence of P.Ws. 9, 10, 11 and 12. The plea of the defence was that they inflicted the injuries in exercise of the right of private defence. The trial Court convicted A-1 under Section 302, I.P.C. and sentenced him to undergo imprisonment for life. A-2 to A-6 were convicted under Sections 436, 148, I.P.C. and 325, 324 and 323 read with 149, I.P.C. and sentenced to five years, two years, three years, one year and six months R.I. respectively.

2. In appeal the High Court held that there was no prior enmity between the two groups and there were no prior meeting of the minds and the whole incident developed all of a sudden because of a dispute about the house and that A-1 only dealt one blow with blunt portion of pharsi on the head of the deceased. The High Court, however, rejected the plea of self-defence. Having regard to the fact that one blow was dealt by A-1 the High Court convicted A-1 under Section 304 Part II, I.P.C. and sentenced him to undergo five years' rigorous imprisonment with a fine of Rs. 2,500/- and in default of payment, of which to further undergo rigorous imprisonment for two years.

3. In this appeal learned Counsel submits that the prosecution has not explained so many injuries on the accused persons and, therefore, they have not come out with the whole truth as to the genesis of the occurrence and on the other hand the plea of the accused that they inflicted injuries on the deceased in exercise of their right of self-defence must be accepted and they should be given the benefit of doubt. In this context it has to be noted that as matter of fact, the accused went to the Police early and informed about the occurrence. It is unfortunate that the deceased though received only one injury dies as the same resulted in the fracture of skull bones. Having regard to the specific plea put forward by the accused under Section 313, Cr.P.C. there is no reason why it should be rejected outright. In this context, it has to be noted that the accused need not establish their right beyond all reasonable doubt. It is enough if a reasonable doubt arises on examination of the probabilities of the case. In the instant case we have seen that the accused persons received fairly number of injuries. Some of them were on vital parts. The prosecution has no plausible explanation. In such a situation, the plea put forward by the accused appears to be quite probable and therefore, it cannot be rejected. The next question is whether they have exceeded the right of private defence. Only one overt act is attributed to A-1. It is clear that he inflicted only one injury and dealt one blow on his head. Therefore, in such a situation, it cannot be said that the act of A-1 is not in conformity with the limitations laid down in Section 100, I.P.C. In the result we give the benefit of doubt to all the accused as such. We are of the view that they have not exceeded the right of self-defence. The appeal is allowed. If the appellants are on bail, their bail bonds shall stand cancelled. The sentences of fine are also set aside.