

COMMENT.—

In a civilised society the defence of person and property of every member thereof is the responsibility of the State. Consequently, there is a duty cast on every person faced with apprehension of imminent danger of his person or property to seek the aid of the machinery provided by the State but if immediately such aid is not available, he has the right of private defence. Right to private defence is a very valuable right and it has been recognized in all civilized and democratic societies within certain reasonable limits. Sections 96–106 of [IPC, 1860](#) codify the entire law relating to right of private defence of person and property including the extent of and the limitation to exercise of such right. When enacting [sections 96 to 106](#) of the [IPC, 1860](#), excepting from its penal provisions, certain classes of acts, done in good faith for the purpose of repelling unlawful aggressions, the Legislature clearly intended to arouse and encourage the manly spirit of self-defence amongst the citizens, when faced with grave danger.²⁶⁹

[s 96.1] Principle.—

The basic principle underlying the doctrine of the right of private defence is that when an individual or his property is faced with a danger and immediate aid from the State machinery is not readily available, that individual is entitled to protect himself and his property.²⁷⁰ The right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger not of self-creation. That being so, the necessary corollary is that the violence which the citizen defending himself or his property is entitled to use must not be unduly disproportionate to the injury which is sought to be averted or which is reasonably apprehended and should not exceed its legitimate purpose. The law does not require a law abiding citizen to behave like a coward when confronted with an imminent unlawful aggression. There is nothing more degrading to the human spirit than to run away in face of danger. The right of private defence is thus, designed to serve a social purpose and deserves to be fostered within the prescribed limits. The [IPC, 1860](#) defines homicide in self-defence as a form of substantive right, and therefore, save and except the restrictions imposed on the right of the Code itself, it seems that the special rule of English Law as to the duty of retreating will have no application to this country where there is a real need for defending oneself against deadly assaults. The right to protect one's own person and property against the unlawful aggressions of others is a right inherent in man. The duty of protecting the person and property of others is a duty which man owes to society of which he is a member and the preservation of which is both his interest and duty. It is, indeed, a duty which flows from human sympathy.

As Bentham said:

It is a noble movement of the heart, that indignation which kindles at the sight of the feeble injured by the strong. It is noble movement which makes us forget our danger at the first cry of distress..... It concerns the public safety that every honest man should consider himself as the natural protector of every other.

But such protection must not be extended beyond the necessities of the case; otherwise it will encourage a spirit of lawlessness and disorder. The right has, therefore, been restricted to offences against the human body and those relating to aggression on property. Right of private defence of person and property is recognized in all free, civilised, democratic societies within certain reasonable limits. Those limits are dictated by two considerations: (1) that the same right is claimed by all other members of the society and (2) that it is the State which generally undertakes the responsibility for the maintenance of law and order. The citizens, as a general rule, are neither expected to run away for safety when faced with grave and imminent danger to their person or property as a result of unlawful aggression, nor are they expected, by

use of force, to right the wrong done to them or to punish the wrong doer of commission of offences.^{271.}

[s 96.2] Scope.—

Section 96 IPC, 1860 provides that nothing is an offence which is done in the exercise of the right of private defence. The section does not define the expression "right of private defence". It merely indicates that nothing is an offence which is done in the exercise of such right.^{272.} While providing for exercise of the right, care has been taken in IPC, 1860 not to provide and has not devised a mechanism whereby an attack may be a pretence for killing. A right to defend does not include a right to launch an offensive, particularly when the need to defend no longer survived.^{273.} Just because one circumstance exists amongst the various factors, which appears to favour the person claiming right of self-defence, does not mean that he gets the right to cause the death of the other person. Even the right of self-defence has to be exercised directly in proportion to the extent of aggression.^{274.}

[s 96.3] Test.—

Whether in a particular set of circumstances, a person legitimately acted in the exercise of the right of private defence is a question of fact to be determined on the facts and circumstances of each case. No test in the abstract for determining such a question can be laid down. In determining this question of fact, the Court must consider all the surrounding circumstances. It is not necessary for the accused to plead in so many words that he acted in self-defence. If the circumstances show that the right of private defence was legitimately exercised, it is open to the Court to consider such a plea.^{275.} The means and the force a threatened person adopts at the spur of the moment to ward off the danger and to save himself or his property cannot be weighed in golden scales. It is neither possible nor prudent to lay down abstract parameters which can be applied to determine as to whether the means and force adopted by the threatened person was proper or not. Answer to such a question depends upon host of factors like the prevailing circumstances at the spot; his feelings at the relevant time; the confusion and the excitement depending on the nature of assault on him etc. Nonetheless, the exercise of the right of private defence can never be vindictive or malicious. It would be repugnant to the very concept of private defence.^{276.} A person who is apprehending death or bodily injury cannot weigh in golden scales in the spur of moment and in the heat of circumstances, the number of injuries required to disarm the assailants who were armed with weapons. In moments of excitement and disturbed mental equilibrium it is often difficult to expect the parties to preserve composure and use exactly only so much force in retaliation commensurate with the danger apprehended to him where assault is imminent by use of force, it would be lawful to repel the force in self-defence and the right of private defence commences, as soon as the threat becomes so imminent. Such situations have to be pragmatically viewed and not with high powered spectacles or microscopes to detect slight or even marginal overstepping. Due weightage has to be given to, and hyper technical approach has to be avoided in considering what happens on the spur of the moment on the spot and keeping in view normal human reaction and conduct, where self-preservation is the paramount consideration. But, if the fact situation shows that in the guise of self-preservation, what really has been done is to assault the original aggressor, even after the cause of reasonable apprehension has disappeared, the plea of right of private defence can legitimately be negated. The Court dealing with the plea has to weigh the material to conclude whether the plea is acceptable. It is

essentially, as noted above, a finding of fact.²⁷⁷ Situations have to be judged from the subjective point of view of the accused concerned in the surrounding excitement and confusion of the moment, confronted with a situation of peril and not by any microscopic and pedantic scrutiny. In adjudging the question as to whether more force than was necessary was used in the prevailing circumstances on the spot it would be inappropriate, as held by this Court, to adopt tests by detached objectivity which would be so natural in a Court room, or that which would seem absolutely necessary to a perfectly cool bystander. The person facing a reasonable apprehension of threat to himself cannot be expected to modulate his defence step-by-step with any arithmetical exactitude of only that much which is required in the thinking of a man in ordinary times or under normal circumstances.²⁷⁸

Mere use of abusive language does not give rise to private defence. Thus, where the deceased about a month before the murder had tried to outrage the modesty of the wife of the accused and thereafter on the day of the incident cut a rustic joke enquiring whether the accused had not kept buffaloes for drinking milk which lead the accused to beat the deceased mercilessly resulting in his death, it was held that giving the most charitable interpretation one could not find a single circumstance which will give the accused the benefit of the right of private defence and the interval between the attempt to outrage the modesty of the accused's wife and the murder being too long he was also not entitled to get the benefit of grave and sudden provocation within the meaning of exception 1 to [section 300, IPC, 1860](#).²⁷⁹ Giving a general view of all the provisions on this right in *Munney Khan v State*,²⁸⁰ the Supreme Court observed:

The right of private defence is codified in [sections 96 to 106, IPC](#), which have all to be read together in order to have a proper grasp of the scope and limitations of this right. By enacting the sections the authors of the Code wanted to except from the operation of its penal clauses acts done in good faith for the purpose of repelling unlawful aggression.²⁸¹

Summary of Principles regarding Private defence

- (i) Self-preservation is the basic human instinct and is duly recognized by the criminal jurisprudence of all civilized countries. All free, democratic and civilized countries recognize the right of private defence within certain reasonable limits.
- (ii) The right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger and not of self-creation.
- (iii) A mere reasonable apprehension is enough to put the right of self-defence into operation. In other words, it is not necessary that there should be an actual commission of the offence in order to give rise to the right of private defence. It is enough if the accused apprehended that such an offence is contemplated and it is likely to be committed if the right of private defence is not exercised.
- (iv) The right of private defence commences as soon as a reasonable apprehension arises and it is co-terminus with the duration of such apprehension.
- (v) It is unrealistic to expect a person under assault to modulate his defence step by step with any arithmetical exactitude.
- (vi) In private defence the force used by the accused ought not to be wholly disproportionate or much greater than necessary for protection of the person or property.
- (vii) It is well settled that even if the accused does not plead self-defence, it is open to consider such a plea if the same arises from the material on record.
- (viii) The accused need not prove the existence of the right of private defence

beyond reasonable doubt.

- (ix) The [IPC, 1860](#) confers the right of private defence only when that unlawful or wrongful act is an offence.
- (x) A person who is in imminent and reasonable danger of losing his life or limb may in exercise of self-defence inflict any harm even extending to death on his assailant either when the assault is attempted or directly threatened.

[*Darshan Singh v State of Punjab*.^{282.}]

All the sections would have to be read together to ascertain whether in the facts and circumstances of the case the accused were entitled to the defence or they exceeded it. Only then one can get a comprehensive view of the scope and limitations of the right.^{283.}

1. Availability or Non-availability of private defence.—Factors to be kept in view.— In order to find whether right of private defence is available or not, the entire incident must be examined with care and viewed in its proper setting. The injuries received by the accused, the imminence of threat to his safety, the injuries caused by the accused and the circumstances whether the accused had time to have recourse to public authorities are all relevant factors to be considered on a plea of private defence.^{284.} The right of private defence is a defence right. It is neither a right of aggression nor a right of reprisal. There is no right of private defence where there is no apprehension of danger. Right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger not of self-creation. The necessity must be a present necessity whether real or only apparent.^{285.} It remains a question of fact whether the right has been legitimately exercised.^{286.} Thus, running to house, fetching a sword and assaulting the deceased are by no means a matter of chance. These acts bear stamp of a design to kill and take the case out of the purview of private defence.^{287.} But where the accused was dispossessed of his land by a party of men and he ran to his residence from where he fetched his gun and came back within 15 minutes to fire at and injure them, he was held to be within his rights, but when he went further still and chased and injured a person who was just standing by there and who died, in reference to him the accused had no right of private defence.^{288.} Along with the above factors one has also to remember the following limitations on the right of private defence of person or property:

- (i) that if there is sufficient time for recourse to public authorities, the right are not available;
- (ii) that more harm than that is necessary should not be caused;
- (iii) that there must be a reasonable apprehension of death or grievous hurt or hurt to the person or damage to the property concerned.^{289.} Where on account of some incident, the accused was confronted by three persons; it was held that the superiority in numbers in itself could in all probability have been construed by the accused as an imminent danger to himself thus, giving him the signal to act in exercise of the right of private defence.^{290.}

The need to act must not have been created by the conduct of the accused in the immediate context of the incident which was likely or intended to give rise to that need.^{291.} The Supreme Court reiterated the various principles governing the law of private defence and observed that it was essentially a defensive right and did not include the right to launch an offensive attack, particularly when the need for defence no longer existed.^{292.} A right of private defence given by the [Penal Code](#) is essentially

one of defence or self-protection and not a right of reprisal or punishment. It is subject to the restrictions indicated in section 99 which are as important as the right itself.^{293.}

[s 96.4] CASES.—Plea of Private Defence rejected.—

After inflicting injuries on person of first deceased, accused persons ran towards second deceased, who was standing ten steps away from place of incident. Further after seeing incident relating to death of first deceased, second deceased started running towards *Durga-ki-Dhani* and was chased by accused persons and they inflicted *lathi* blows on his person. Accused had no right to invoke right of self-defence by chasing second deceased and to cause fatal injuries upon him.^{294.} Where the accused were in fact the aggressors and being members of the aggressors party none of the accused can claim right of self-defence.^{295.} Merely because there was a quarrel and some of the accused person sustained injuries, that does not confer a right of private defence extending to the extent of causing death. It has to be established that the accused person were under such grave apprehension about the safety of their life and property that retaliation to the extent done was absolutely necessary. Right of private defence has been rightly discarded.^{296.}

The defence claimed that the place of occurrence was the house of the accused and, therefore, they had acted in self-defence but that was not proved through any leading evidence despite the examination of the accused under [section 313 of the Cr PC, 1973](#), it was held that the right of self-defence was not available to them.^{297.}

[s 96.5] Social nature of defence.—

The right of private defence is not restricted to the particular person who is under attack. It extends to the society as a whole. It is available to any member of the society who rises to the occasion. But it is wholly a social obligation without any legal overtones.^{298.}

[s 96.6] Material that accused may rely on.—

An accused entitled to rely for constructing his private defence on the material on record brought by the prosecution.^{299.} Without formally taking a plea of self-defence, the accused has a right to probabalise such defence on the basis of the prosecution evidence and if he succeeds in his effort, the Court can give him such a benefit.^{300.}

2. Duty to retreat, if any.—It is now well settled that the rule of retreat which Common Law Courts espoused is not relevant under the [IPC, 1860](#). If a man's property is in imminent danger of being impaired or attacked he has the right to resort to such measures as would be reasonably necessary to thwart the attempt to protect his property.^{301.} Under the common law the doctrine of necessity permitted one to defend one's person or property or the person or property of others against an unjustified attack by the use of reasonable force. In determining what was reasonable force, which in the Indian context means minimum force under [section 99, IPC, 1860](#), the common law Courts always insisted if the accused could prevent the commission of crime against him by retreating. On this rule of retreat one would like to ask: if a person is attacked by an armed burglar in his own room, he is expected to run away leaving the burglar to act as he liked.^{302.} In *Jaidev's case*^{303.} Gajendragadkar, J, as he then was,

specifically held that in India there is no rule which expects a man first to run away or at least try to do so before he can exercise his right of private defence. Rather he has every right to stand his own ground and defend himself if there is no time to have recourse to official help. Law does not expect a citizen to be a rank coward or leave his own house at the mercy of the burglar.³⁰⁴ In spite of this clear exposition of the law in *Jaidev's* case Sarkaria, J, held in *Yogendra Morarji's* case³⁰⁵ that one must first try to avoid the attack by retreating otherwise one would not be entitled to get the benefit of private defence. It appears that *Jaidev's* case was not canvassed before the learned judges who decided the latter case. It is submitted with utmost respect that the former view as held in *Jaidev's* case, appears to be more reasonable and has to be preferred.

3. No Private defence in a free fight.—Where both sides can be convicted for their individual acts, normally no right of private defence is available to either party and they will be guilty of their respective acts.³⁰⁶ Where two parties come armed with determination to measure their strength and to settle a dispute by force and in the ensuing fight both sides receive injuries, no question of right of private defence arises. In such a case of free fight both parties are aggressors and none of them can claim right of private defence.³⁰⁷ In a free fight between two groups resulting in the death of one and injuries to several others both grievous and simple, all the accused participated in the fight. The plea of one of the accused that he joined the fight later and acted in defence of other co-accused was held to be not tenable. The Court observed that his case could not be separated by giving him right of private defence under the benefit of doubt.³⁰⁸ In a sudden fight between two groups in heat of passion death of a man was caused and several others on both the sides were injured. The deceased opened the assault first. It was held that in such fights the question that which party opened attack first is immaterial. Plea of right of self-defence was not allowed to the accused.³⁰⁹ Where two groups forming an unlawful assembly over the possession of land in dispute which was in peaceful possession of neither group, indulged in free fight resulting in the death of two persons of a group, it was held that right of private defence was not available to either group.³¹⁰

The right to voluntary causing of death or any other harm is available against the assailant and not against any other person.³¹¹

4. Injury to accused.—If makes out private defence.—Number of injuries on the accused by itself may not be sufficient to establish the right of private defence.³¹² The number of injuries is not always considered to be a safe criterion for determining who the aggressor was. It can also not be laid down as an unqualified proposition of law that whenever injuries are on the body of the accused person, the presumption must necessarily be raised that the accused person had caused injuries in exercise of the right of private defence. The defence has to further establish that the injury so caused on the accused probalilise the version of the right of private defence.³¹³ Non-explanation of injuries on the person of the accused is a factor of great importance and this fact may induce the Court in judging the veracity of prosecution witnesses with considerable care.³¹⁴ The right of private defence cannot justifiably be raised by showing that one of the accused had suffered some minor injuries and the prosecution had not explained the same.³¹⁵ In a given case it may strengthen the plea of private defence set up by the accused or may create genuine doubt regarding the prosecution case. At the same time it cannot be laid down as an invariable proposition of law that as soon as it is found that the accused had received injuries in the same transaction in which the complainant party was assaulted, the plea of private defence would stand *prima facie* established and burden would shift on to the prosecution to prove that those injuries were caused to the accused in self-defence by the complainant party.³¹⁶ When the accused turned back from the house of the deceased whom they had visited, the deceased followed them along with his brother and mother and tried to attack them

from behind. The accused turned back and shot at him causing death. It was held that the conduct of the accused was justifiable. His acquittal was not interfered with.³¹⁷ Where the deceased along with his father was putting up a fence which was protested by the accused resulting in an altercation, and the accused suddenly dealt a *lathi* blow on the head of the deceased which proved fatal, it was held that since the accused received injuries as a result of assault by the deceased and his father, the accused had justifiably exercised his right of private defence.³¹⁸ In a case of murder some of the serious injuries found on the person of the accused were not explained and some of the prosecution witnesses also were injured, it was held that it could be said that the accused party had acted in exercise of right of private defence and confirmation of the acquittal of all the accused but one by the High Court was not proper.³¹⁹ Where serious injuries inflicted on the person of the accused could not be explained by the prosecution, the accused could be said to be entitled to the right of private defence. Their conviction under section 300 was held to be not proper.³²⁰

In *State of UP v Mukunde*,³²¹ the Supreme Court observed that merely on the ground that the prosecution witnesses have not explained the injuries on the accused, their evidence ought not to be rejected if the Court finds it probable that the accused might have acted in exercise of the right of private defence. The Supreme Court also observed in a subsequent case³²² that:

it cannot be held as a matter of law or invariably a rule that whenever an accused sustained an injury in the same occurrence the prosecution is obliged to explain the injury and on the failure of the prosecution to do so, the prosecution case should be disbelieved. Before non-explanation of injuries on the person of the accused by the prosecution witnesses may affect the prosecution case, the court has to be satisfied of the existence of two conditions: (1) that the injuries on the person of the accused were of a serious nature and (ii) such injuries must have been received at the time of the occurrence in question. Non-explanation of injuries assumes greater significance when the evidence consists of interested or partisan witnesses or where the defence gives a version which completes in probability with that of the prosecution.³²³

These rulings were followed in *Kashi Ram v State of MP*³²⁴. The accused persons were alleged to have assaulted the prosecution party, but the prosecution witnesses failed to explain serious injuries including injuries on the vital parts of the body sustained by one of the accused in the same incident. The Court said that this could not be a ground for discarding the prosecution story and for acquittal of all accused persons.

Where the accused had some trivial injuries on non-vital parts but the victim had suffered as many as 19 injuries including some on vital parts which resulted in his death, it could not be believed that the accused had acted in self-defence especially when he was arrested five or six days after the incident but in the intervening time did not care to get himself medically examined. A plea of private defence cannot be based on surmises and speculation.³²⁵

The Supreme Court has also observed that merely because there was a quarrel and the accused persons also sustained injuries, it did not confer a right of private defence to the extent of causing death. Though such right cannot be weighed in golden scales, it has at least to be shown that the accused persons were under such grave apprehension about the safety of their life and property and that the retaliation to the extent actually done was absolutely necessary.³²⁶

The number of injuries is not always a safe criterion for determining as to who was the aggressor. It cannot be stated as a universal rule that whenever injuries are on the body of the accused person, a presumption must necessarily be raised that the accused persons had caused injuries in the exercise of the right of private defence. The defence has further to show that injuries on the accused probalilise the version of the right of private defence.³²⁷ In moments of excitement and disturbed mental equilibrium, parties cannot be expected to preserve composure and use exactly only so much in

retaliation as is commensurate with the apprehended danger. Due weightage has to be given to what happened at the spur of the moment at the spot. Things have to be judged pragmatically keeping in view, the normal human reactions and behaviour, self-preservation being the paramount consideration. Microscopic and pedantic scrutiny has to be avoided.^{328.}

[s 96.7] Retaliation.—

The Supreme Court observed:

From a plain reading of the sections (Ss. 96–106) it is manifest that such a right can be exercised only to repel unlawful aggression and not to retaliate. To put it differently, the right is one of defence and not of requital or reprisal. Such being the nature of the right, the High Court could not have exonerated the accused persons of the charges levelled against them by bestowing on them the right to retaliate and attack the complainant party.^{329.}

[s 96.8] Where private defence not pleaded.—

If circumstances show that the right of private defence was legitimately exercised, it is open to the Court to consider such a plea, even if accused had not taken it. A right of private defence need not specifically be taken and in the event the Court on the basis of the materials placed on record is in a position to come to such a conclusion, the Court may act thereupon.^{330.} Where the right of private defence was not pleaded by the accused, but it appeared that the complainant was the aggressor, the Bombay High Court held that the benefit of such defence could still be given to the accused.^{331.} Fact that accused pleaded alibi-itself will not preclude the Court from giving him also the right of private defence if on proper appraisal of evidence and other material on records, Court finds it to be available to him.^{332.} The right of private defence cannot be denied merely because the accused adopted a different line of defence particularly when the evidence adduced by the prosecution would indicate that they were put under a situation where they could reasonably have apprehended grievous hurt even to one of them.^{333.} The Supreme Court endorsed this principle by saying that it is not necessary that the plea of private defence must always be taken by the accused person. Even if the accused does not do so, the Court can consider it if the circumstances show that the right of private defence was legitimately exercised.^{334.}

The accused has not to plead self-defence by examining some witnesses or by making any statement. But there has to be some material available on record to indicate that the accused had attacked the deceased in exercise of the right of self-defence.^{335.}

[s 96.9] In appeal.—

It is permissible for accused to raise that plea at the stage of appeal as the settled legal position is that even if the accused does not plead self-defence, it is open to consider such a plea if the same arises from the material on record.^{336.}

1. *Shankar Narayan Bhadolkar v State of Maharashtra*, AIR 2004 SC 1966 [LNIND 2004 SC 1370] : 2004 Cr LJ 1778 : (2005) 9 SCC 71 [LNIND 2004 SC 1370] .
2. The *Indian Evidence Act*, I of 1872, section 105.
3. *Musammat Anandi*, (1923) 45 All 329 ; *Babulal*, 1960 Cr LJ 437 (All).
4. *A K Chaudhary v State of Gujarat*, 2006 Cr LJ 726 (Guj).
5. *A K Chaudhary v State of Gujarat*, 2006 Cr LJ 726 (Guj).
269. *Darshan Singh v. State of Punjab*, (2010) 2 SCC 333 [LNIND 2010 SC 70] : (2010) 1 SCR 642 [LNIND 2010 SC 70] : AIR 2010 SC 1212 [LNIND 2010 SC 70] : 2010 Cr LJ 1393 : (2010) 2 SCC(Cr) 1037.
270. *Dharam v State of Haryana*. JT 2007 (1) SC 299 [LNIND 2006 SC 1108] : AIR 2007 SC 397 [LNIND 2006 SC 1108] : 2006 AIR SCW 6298.
271. *Darshan Singh v State of Punjab*, (2010) 2 SCC 333 : (2010) 1 SCR 642 [LNIND 2010 SC 70] : AIR 2010 SC 1212 [LNIND 2010 SC 70] : 2010 Cr LJ 1393 : (2010) 2 SCC(Cr) 1037.
272. *V Subramani v State of TN*, (2005) 10 SCC 358 [LNIND 2005 SC 224] : AIR 2005 SC 1983 [LNIND 2005 SC 224] .
273. *Babulal Bhagwan Khandare v State of Maharashtra*, AIR 2005 SC 1460 [LNIND 2004 SC 1203] : (2005) 10 SCC 404 [LNIND 2004 SC 1203] .
274. *Mano Dutt v State of UP*, JT 2012 (2) SC 573 : 2012 (3) Scale 219 [LNIND 2012 SC 160] : (2012) 4 SCC 79 [LNIND 2012 SC 160] .
275. *V Subramani v State of TN*, (2005) 10 SCC 358 [LNIND 2005 SC 224] : AIR 2005 SC 1983 [LNIND 2005 SC 224] .
276. *Dharam v State of Haryana*. JT 2007 (1) SC 299 [LNIND 2006 SC 1108] : AIR 2007 SC 397 [LNIND 2006 SC 1108] : 2006 AIR SCW 6298.
277. *Buta Singh v The State of Punjab*, 1991 (2) SCC 612 [LNIND 1991 SC 177] : 1991 SCC (Cr) 494 : AIR 1991 SC 1316 [LNIND 1991 SC 177] : 1991 Cr LJ 1464 ; *Satya Narain Yadav v Gajanand*, (2008) 16 SCC 609 [LNIND 2008 SC 2782] : (2008) 10 Scale 728 [LNIND 2008 SC 2782] .
278. *Babulal Bhagwan Khandare v State of Maharashtra*, AIR 2005 SC 1460 [LNIND 2004 SC 1203] : (2005) 10 SCC 404 [LNIND 2004 SC 1203] .
279. *Dattu Genu*, 1974 Cr LJ 446 : AIR 1974 SC 387 [LNIND 1973 SC 357] .
280. *Munney Khan v State*, AIR 1971 SC 1491 [LNIND 1970 SC 338] : (1970) 2 SCC 480 [LNIND 1970 SC 338] . On the same point, *Narasimha Raju v State*, 1971 Cr LJ 1066 : (1970) 3 SCC 481 : AIR 1971 SC 1232 ; *Mohammad Hameed v State*, AIR 1980 SC 108 : 1980 Cr LJ 192 : (1979) 4 SCC 708 . An illustrative situation is *Jagdish Chandra v State of Rajasthan*, 1987 Cr LJ 649 Raj, in consequence of enmity and intemperate nature, one fired at the other, the other returning the fire resulting in death. In the prosecution of the other, this defence was allowed.
281. Plea of self-defence was rejected where the evidence showed that the deceased was unarmed and was not the aggressor. *Kuduvakuzinil Sudhakaran v State*, (1995) 1 Cr LJ 721 (Ker). Defence that a stab wound causing death was inflicted on the chest of the deceased with a pen-knife was found to be apparently false because such instrument would not have caused that kind of wound, plea of self defence rejected, *Sellamuthu v State of TN*, (1995) 2 Cr LJ 2143 (Mad). *Hakim Singh v State of MP*, (1994) 2 Cr LJ 2463 (MP), the deceased was unarmed when fired at, he caused injury only after receiving the gun-shot wound, right of private defence in shooting at him not available. *Hukam Chand v State of Haryana*, AIR 2002 SC 3671 [LNIND 2002 SC 652] , theory of self-defence, not supported by facts. *Jham Singh v State of MP*, 2003 Cr LJ 2847 , no injury found on the person of the accused, nor any report made. The plea of private defence was rejected.
282. *Darshan Singh v State of Punjab*, (2010) 2 SCC 333 : (2010) 1 SCR 642 [LNIND 2010 SC 70] : AIR 2010 SC 1212 [LNIND 2010 SC 70] : 2010 Cr LJ 1393 : (2010) 2 SCC(Cr) 1037.

283. *Kashi Ram v State of Rajasthan*, (2008) 3 SCC 55 [LNIND 2008 SC 187] : (2008) 1 SCC (Cr) 608 : AIR 2008 SC 1172 [LNIND 2008 SC 187] . *Narain Singh v State of Haryana*, (2008) 11 SCC 540 [LNIND 2008 SC 864] : AIR 2008 SC 2006 [LNIND 2008 SC 864] : 2008 Cr LJ 2613 , principles imbibed in sections 96-106 restated. *Manubhai Atabhai v State of Gujarat*, (2007) 10 SCC 358 [LNIND 2007 SC 822] : AIR 2007 SC 2437 [LNIND 2007 SC 822] , once the right of private defence is established, conviction is not permissible.
284. *Sikandar Singh v State of Bihar*, (2010) 7 SCC 477 [LNIND 2010 SC 603] : (2010) 8 SCR 373 : AIR 2010 SC 44023 : 2010 Cr LJ 3854 : (2010) 3 SCC (Cr) 417.
285. *Bhanwar Singh v State of MP*, (2008) 16 SCC 657 [LNIND 2008 SC 1246] : AIR 2009 SC 768 [LNIND 2008 SC 1246] : (2008) 67 AIC 133 . *Dharam v State of Haryana*, (2007) 15 SCC 241 [LNIND 2006 SC 1108] , nature and scope of the right explained. *Haren Das v State of Assam*, 2012 Cr LJ 1467 (Gau).
286. *Thankachan v State of Kerala*, (2008) 17 SCC 760 .
287. *Biran Singh*, 1975 Cr LJ 44 : AIR 1975 SC 87 .
288. *Krishanlal v State*, 1988 Cr LJ 990 (J&K).
289. *Puran Singh*, 1975 Cr LJ 1479 : AIR 1975 SC 1674 [LNIND 1975 SC 174] .
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