Supreme Court of India
Jayappa Dattu Rajage And Ors. vs State Of Maharashtra on 6 May, 1982
Equivalent citations: AIR 1982 SC 1183, 1982 CriLJ 1394, 1982 (1) SCALE 448, (1982) 2 SCC 453, 1982 (14) UJ 482 SC
Author: C Reddy
Bench: O C Reddy, V Eradi
JUDGMENT Chinnappa Reddy, J.

1. In this appeal, special leave was granted on the question of the nature of offence and sentence only. The learned Sessions Judge and the High Court have, concurrently, held that the four appellants were responsible for causing the injuries which were found on the person of the deceased, Mansur. While the learned Sessions Judge convicted the appellants under Section 325 read with Section 34 I.P.C. and awarded a sentence of 2 years' imprisonment, the High Court--there was an appeal by the State--convicted the appellants under Section 304 Part II read with Section 34 I.P.C. and sentenced each of them to suffer imprisonment for a period of seven years.

2. The evidence of the doctor who carried out the autopsy on the dead body of Mansur revealed two contused lacerated wounds over the right frontal and fronto parietal region of the skull, each measuring 1 1/2" x 1/2" X bone deep, one contused lacerated wounds over the right eyebrow region measuring 1" X 1/4" X bone deep, two contused lacerated wounds over the right leg measuring 2" X 1/2" X bone deep and 1/2" X 1/4" X bone deep and innumerable abrasions all over the body. The two contused, lacerated wounds over the right leg resulted in fractures of the radius and ulna, and the tibia and the fabula, respectively. There was haematoma all over under the scalp. There was also haematoma all over the brain over the frontal, temporal and occipital regions. The doctor opined that the deceased died as a result of shock and hemorrhage due to subdural haematoma and fractures of the bones. He further opined that the injuries were not sufficient to cause death in the ordinary course of nature, even cumulatively. He stated that the haematoma all over under the scalp might have been due to the contused, lacerated wounds over the right frontal and fronto parietal regions. In cross-examination, the doctor stated every head injury need not result in haematoma. He admitted that the post-mortem examination made by him showed that the deceased had consumed alcohol. He stated that the consumption of alcohol results in dilation of blood vessels and that if a person in a drunken condition sustained head injury, haematoma might occur because of dilation of blood vessels.

3. Thus the evidence of the doctor shows that there Were three contused, lacerated wounds on the head, two of which were on the frontal and fronto parietal region of the skull. There was extensive subdural haematoma and, having regard to the location of the wounds, haematoma Was quite obviously due to the head injuries. All the bones of the right leg were broken. The opinion of the doctor was that death was due to shock and haemorrhage due to haematoma and the fractures. We do not see how it makes any difference that Mansur had consumed alcohol. That consumption of alcohol leads to dilation of blood vessels cannot undo the circumstance that the haematoma in the present case was obviously because of the injuries to the head. Even accepting the opinion of the doctor that the injuries were not sufficient in the ordinary course of nature to cause death, we are unable to see how the offence would only be under Section 325 I.P.C. The injuries were clearly of a

nature likely to cause death. Even if the nature of the injuries was such that they were not sufficient in the ordinary course of nature to cause death, they could certainly be said to be the result of acts so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, so as to fall within the fourth limb of Section 300. We are not here concerned with the question whether the acts of the accused resulting in the injuries received by the deceased fall within the fourth limb of Section 300 as there is no appeal by the State to this Court. It can, however, be said, without any hesitation, that the acts of the appellants resulting in the injuries to the deceased were done with the knowledge that they would cause such bodily injury as was likely to cause death. The High Court was not in error in convicting the appellants under Section 34. We do not consider the sentences excessive. The appeal is, therefore, dismissed.