

Supreme Court of India

Smt. Vidya Saran Sharma vs Sudarshan Lal Alias Sudarshan ... on 6 January, 1993

Equivalent citations: AIR 1993 SC 2476, 1993 CriLJ 3135

Bench: K J Reddy, S Bharucha

JUDGMENT

1. This appeal, pursuant to the Special Leave granted, is filed by the wife of the deceased against the order of acquittal passed by the High Court. The respondent was tried for the offence punishable under Section 302, I.P.C. on the ground that he committed the murder of the husband of the appellant. The prosecution examined one eye-witness and tendered two other eye-witnesses for cross-examination. The incident is said to have taken place on the intervening night of 24th and 25th December, 1978, in a club. The record shows that the appellant was indulging in drinking and was aggressive and there was some scuffle. The trial court, however, rejected the plea of the accused that he acted in the right of self-defence holding that the injury found on him was inflicted after occurrence of the incident and that the plea was a belated one and that the version of the defence witness is not worth.

2. The trial court accordingly convicted the accused under Section 302, I.P.C. and sentenced him to undergo life imprisonment. He preferred an appeal. The High Court after examining the nature of the injury, disagreed with the findings of the trial Court. The High Court held that there was a grappling and the accused sustained injuries during that struggle and to save himself he caused only one injury on the neck of the deceased, which unfortunately cut the carotid artery and resulted in profuse bleeding. The High Court also held that the very fact that the accused inflicted only one injury when he was apprehending serious danger to his person and that as his case being covered by the exceptions, was entitled to the right of self defence.

3. The learned Counsel appearing for the appellant, namely, the wife of the deceased, who had not even witnessed, however, submitted that the scope of the appeal under Article 136 is very wide and that this Court can examine the evidence and can also consider whether the High Court was right in reversing the findings of the trial Court. As stated above the only question that falls for consideration before the courts below was whether the accused was entitled for the right of self-defence. In appreciating this plea the High Court also took into consideration the fact that there was a grapple and that during that struggle the accused received injuries at the hands of the deceased with a blunt weapon and apprehending danger to his life, inflicted one injury on the neck of the deceased. The High Court also observed that the accused did not intend to cause that particular injury, which unfortunately was on the neck causing the cut of carotid artery.

4. We do not think that the reasons given by the High Court are erroneous or call for interference, in an appeal of this nature. The appeal is dismissed.