

Supreme Court of India

Ashok Balu Mali vs State Of Maharashtra on 26 August, 1994

Equivalent citations: AIR 1995 SC 944

Bench: S Bharucha, S Sen

JUDGMENT

1. Special leave granted.
2. The only question on which notice has been issued is in regard to the nature of the offence.
3. The judgment of the High Court shows that the weapon in question was a dagger-shaped knife, with a four inch long blade, which could also be used as nutcracker. The evidence is that the accused and the deceased, who were brothers, had a quarrel. Their aunts, who are prosecution witnesses, pushed the deceased out of the house. According to the evidence of one of the aunts, the stabbing took place when the deceased had already started repairing a puncture in his bicycle. According to both aunts, the accused suddenly came out and inflicted a wound in back of the accused (sic) deceased with the said knife, and, when the accused (sic) deceased turned, stabbed him again in the chest, which was found to be a fatal wound. It was contended before the High Court that Exception 4 to Section 300, I.P.C. would apply because a serious quarrel was on when the incident occurred. The High Court rejected that contention, and, in our view, rightly, on the basis that if the accused was stabbed when he was actually repairing the puncture in his bicycle there was no fight on at that time.
4. Having regard to the ground which appeared to the High Court and to us, and also having regard to the fact that the accused stabbed the deceased first in the back and then, when he turned, again in the chest, we do not think that the said Exception to Section 300, I.P.C. would apply.
5. We, therefore, dismiss the appeal.