[2024] 7 S.C.R. 163 : 2024 INSC 462

Surender Singh
v.
State (NCT of Delhi)

(Criminal Appeal No. 597 of 2012)

03 July 2024

[Sudhanshu Dhulia* and Rajesh Bindal, JJ.]

Issue for Consideration

Correctness of the order of the High Court upholding the conviction and sentence of the appellant for offences under ss. 302 and 307 IPC .

Headnotes†

Penal Code, 1860 – ss. 302 and 307, s. 300 exception 1 – Murder – Culpable homicide not amounting to murder, when – Plea of self-defence – Prosecution case that the appellant-police guard committed murder of the deceased inside the police station while he was on duty – Deceased was having illicit relationship with the appellant's wife – Deceased and the appellant last seen together in conversation with each other inside the police station by more than one witnesses even minutes before these witnesses saw the appellant killing the deceased with his official 9 m.m. carbine – Plea of self defence by the appellant that the death of the deceased was caused by the appellant when the appellant was deprived of his power of self-control due to grave and sudden provocation caused by the deceased which resulted in his death by accident – Conviction and sentence of the appellant for offences ss. 302 and 307 by the courts below – Justification:

Held: All the evidences are unassailable – Prosecution case stands secured on these evidences – It is a clear case of murder – Motive for the appellant that the deceased was having an affair with his wife, and the execution of the crime at the Police Station, all point towards the murder committed inside the police station by the appellant – One fire arm injury with blackening at the entry point also explains that the deceased was first shot from a close range – Remaining injuries also correlate with the testimony of the eye witnesses – Plea of self-defence and in the alternative the

* Author

plea of grave and sudden provocation taken by the appellant that it was the deceased who came to the police station in full speed in his car thereby first hitting the gate of the police station and then making an attempt to snatch the weapon from the appellant in order to kill him, do not hold any ground – Defence not been able to establish a case of private defence by any evidence – Eye witness accounts of police personnels who were all present at the Police Station at that point of time, establish a case of murder beyond any reasonable doubt – Thus, the nature of weapon used; number of gun shots fired at the deceased; part of the body where gun shots are fired, all point towards the fact that the appellant was determined to kill the deceased and ultimately, he achieved his task – Not a case of any lesser magnitude, and definitely not culpable homicide not amounting to murder – Facts do not even remotely make out any case under exception 1 to s. 300, or under any other exceptions to s. 300 IPC – Interferance with the findings of the courts below not called for – Evidence Act, 1872 – s. 105. [Paras 19-26]

Penal Code, 1860 – s. 300 exception 1 – Culpable homicide when not amounting to murder – Provocation when grave and sudden to bring the case under exception 1 to s. 300:

Held: In order to convert a case of murder to a case of culpable homicide not amounting to murder, provocation must be such that would temporarily deprive the power of self-control of a "reasonable person" – Provocation itself is not enough to reduce the crime from murder to culpable homicide not amounting to murder – Time gap between this alleged provocation and the act of homicide; the kind of weapon used; the number of blows, etc, is also to be seen – These are again all questions of facts – There is no standard or test as to what reasonableness should be in these circumstances as this would again be a question of fact to be determined by a Court. [Para 25]

Criminal trial – Cross-examination of witness deferred by two months – Effect:

Held: Such long adjournment after examination-in-chief, should never be given – This may affect the fairness of the trial and may even endanger, in a given case, the safety of the witness – As far as possible, the defence should be asked to cross examine the witness the same day or the following day – Only in very

exceptional cases, and for reasons to be recorded, the cross examination should be deferred and a short adjournment can be given after taking precautions and care, for the witness, if it is required – Courts should be slow in deferring these matters – This practice is not a healthy practice – Mandate of s. 231 Cr.PC and the law laid down on the subject to be followed in its letter and spirit – Code of Criminal Procedure, 1973 – s. 231.[Paras11,13]

Case Law Cited

State of U.P v. Shambhu Nath Singh [2001] 2 SCR 854 **: (2001) 4 SCC 667;** *Ambika Prasad v. State (Delhi Admn.)* [2000] 1 SCR 342 **: (2000) 2 SCC 646;** *Mohd. Khalid v. State of W.B.* [2002] Suppl. 2 SCR 31 **: (2002) 7 SCC 334;** *State of Kerala v. Rasheed* [2018] 13 SCR 587 **: (2019) 13 SCC 297;** *State of M.P. v. Ramesh* [2004] Suppl. 6 SCR 152 **: (2005) 9 SCC 705;** *Salim Zia v. State of U.P.* [1979] 2 SCR 394 **: (1979) 2 SCC 648;** *K.M. Nanavati v. State of Maharashtra* [1961] 1 SCR 497 **: AIR 1962 SC 605 –referred to.**

List of Acts

Penal Code, 1860; Evidence Act, 1872; Code of Criminal Procedure, 1973.

List of Keywords

Murder; Culpable homicide not amounting to murder; Plea of self defence; Power of self-control; Grave and sudden provocation; Motive; Testimony of the eye witnesses; Private defence; Burden of proof; Case under exception 1 to s. 300 IPC; Deferring of cross-examination of witness; Long adjournment after examination-in-chief; Fairness of the trial.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No.597 of 2012

From the Judgment and Order dated 18.05.2011 of the High Court of Delhi at New Delhi in CRLA No.202 of 2008

Appearances for Parties

S K Agarwal, Sr. Adv., Arun K. Sinha, Rakesh Singh, Ms. Anjali Rajput, Sumit Sinha, Rohan Goel, Abhinav Mutyalwar, Vijay Raj Singh Chouhan, Advs. for the Appellant.

Satyajit A. Desai, Adv. (Amicus Curiae)

Mrs. Aishwarya Bhati, A.S.G., Mukesh Kumar Maroria, Ms. Ameya Vikrama Thanvi, Mrs. Chitrangda Rastaravara, Santosh Kumar, Ms. Sweksha, Ms. Poornina Singh, Chinmay Mehta, Advs. for the Respondent.

Judgment / Order of the Supreme Court

Judgment

Sudhanshu Dhulia, J.

1. The appellant before this Court has challenged the order of the High Court (dated 18.05.2011) which has dismissed his appeal while upholding his conviction and sentence by the Trial Court for offences under Sections 302 and 307 of the Indian Penal Code, for which he has been sentenced for life imprisonment and 7 years of rigorous imprisonment respectively.

2. We have heard the learned counsel for the appellant as well as for the State at length.

3. As the facts of the case would reveal the present case is of a brazen murder, committed inside a Police Station in Delhi. The prosecution case is that the appellant, who was posted as a police guard at Mayur Vihar Police Station, Delhi, executed this murder inside the police station, while he was on duty!

4. The deceased was married to the appellant's first cousin and was also his neighbour. The prosecution case is that the deceased had an illicit relationship with the wife of the appellant. There are more than one witnesses to the fact that the deceased and the appellant were last seen together in conversation with each other inside the police station even minutes before these witnesses saw the appellant killing the deceased with his official 9 m.m. carbine.

5. An FIR was lodged at Police Station Mayur Vihar, New Delhi on 30.06.2002 at 2:30 pm, under Sections 302/307 IPC on the narration of PW-2 who was posted at the Police Station, Mayur Vihar, New Delhi as Head Constable at the relevant point of time. PW-2 states that on the date of the incident she reached the Police Station at around 11.30 am and saw the appellant talking to the deceased. She further states that at around 11.40 am, she

heard sounds of fire and then saw the deceased running towards the Duty Officer's room; he was bleeding with his hands held up in the air. The appellant was seen firing at the deceased from his Carbine. When the firing stopped, the deceased was seen lying outside the duty officer's room, bleeding profusely. The appellant was apprehended along with his carbine by the police staff, and PW-2 who was also injured in the firing was taken to the LBS Hospital where she received medical aid, and later lodged the FIR.

6. The police after its investigation filed chargesheet and the case was committed to Sessions, where charges were framed under Sections 302/307 of IPC against the present appellant. The prosecution examined as many as 27 witnesses. The accused, after giving his statement under Section 313 CrPC, had also examined a witness as DW-1. The Trial Court ultimately convicted and sentenced the appellant under Sections 302 and 307 IPC as already stated above.

7. Strangely, and for reasons best known to the prosecution, it examined PW-6 who is the brother of the appellant and PW-25 who is wife of the appellant, as prosecution witnesses. Although these two witnesses have supported the case of the prosecution to the extent that they establish that the deceased was having an extra marital affair with the appellant's wife, yet both of them added in their testimony that it was the deceased who was determined to kill the appellant!

8. PW-25, who is the wife of the appellant, says that, minutes prior to the incident, the deceased had come to her place and had warned her that he was going to the Police Station to kill her husband! PW-6 is also a witness to this expression on the part of the deceased.

9. The accused/appellant who as we shall see, has neither denied the incident nor the fact that he killed the deceased. His argument is that he did it as a matter of self-defence, and in the alternative if self-defence is not accepted by the Court, then it was a case of grave and sudden provocation at best, which led to the death of the deceased at the hands of the appellant. In other words, if at all, the appellant can be punished only for culpable homicide not amounting to murder.

It has been argued before us that on the fateful day (i.e. 30.06.2002), it was the deceased who had come to the police station to kill the appellant and the appellant used his weapon only in self defence, but unfortunately the deceased was killed.

The evidence of PW-25 and PW-6 which we have just referred apparently supports this theory, to the extent that the deceased was determined to kill the appellant. The appellant states in his Section 313 Cr.P.C. statement as under :-

> *"…I was doing my duty as a santari. At about11.40 Satish (deceased) who was my relative came there. I had half closed the doors of PS as per directions of SHO. He opened the doors by hitting car against these. He parked his car inside the PS. He started shouting at me. I took him towards near police quarters. He pounced at me. I forbade him from doing so. I took him towards duty officer's room. I tried to snatch my carbine from his hand. In that process firing took place. Magazine fell down. I tried to pick it up and fit in the carbine. In that process it fired four-five times in air. Satish tried to snatch said carbine from me and in that process was hit by bullets. The carbine fired in rapid action from gate of PS up to police quarters. When we were near duty officer's room the carbine was set at automatic mode. It fired which hit deceased Satish as well as walls, tube lights and windows of duty officer's room."*

The entire case of the defence is built on the above statement of the accused appellant, which is that it was the deceased who had come rushing to the Police Station on that fateful day knowing very well that the appellant was posted there as a guard. He then tried to snatch the weapon from the appellant and in this scuffle, shots were fired from the weapon, which was an accident, which ultimately led to the death of the deceased. This, in short is the case of the defence.

All the same, this trumped up story did not find favour with the trial court and the appellate court and understandably so as the prosecution has an overwhelming evidence to the contrary, which only points towards a dastardly murder at the hands of the present appellant.

The prosecution case is primarily based on the statement of the eye witnesses present in the Police Station itself and mainly PW-2 who is a lady head constable and also the complainant. This witness has remained steadfast to her version of the incident, which was given in the first information report lodged by her; and later in her examination-in-chief and cross-examination, during the trial. She is

an extremely credible and trustworthy witness and the veracity of her statement and deposition establishes the guilt of the accused beyond reasonable doubt, and has its corroboration with other evidences, including ocular evidences of PW-1, PW-14 and PW-17, who were also constables or head Constables posted at Police Station Mayur Vihar, New Delhi, and were present at the Police Station at the relevant time. Additionally, this is also confirmed by the forensic evidence which was gathered by the Police during investigation from the site itself, to which we shall refer in a while.

PW-2 was put to a lengthy cross-examination by the defence. In the cross-examination the defence made every possible attempt to cast doubt on the presence of this witness at the Police Station, but this was all in vain since there are more than one witnesses in this case which clearly establish the presence of PW-2 at the Police Station. Her presence is established by the other witnesses such as PW-1, PW-14 and PW-17, who were also Police constables posted at the same Police Station. Most importantly her presence is established by the fact that this witness (PW-2) is also an injured witness as she had sustained bullet injuries on her left shoulder. Her medical examination was done on the same day and the following injuries were found :

1. *Lacerated wound 2x2 cm over left (L) shoulder near lateral end of clavicle, penetrating anterior aspect, fresh, oozing of blood.*

2. *Lacerated wound left (L) shoulder, posterior aspect near lateral end of clavicle, 3x3 cm, fresh, oozing of blood.*

PW-11, Head Constable Jai Prakash, is the one who took PW-2 to the LBS hospital and also testified before the court in this regard. PW-27, the SHO of the police station who investigated the case, also testified that he reached the police station right after the incident and then rushed to the hospital where he recorded the statement of PW-2.

10. In her examination-in-chief PW-2 says that on 30.06.2002, she was posted at Police Station, Mayur Vihar where she was to work as duty officer from 9 a.m. to 5 p.m., but as she had some personal work in the morning that day, she had taken prior permission from the SHO to arrive late. She hence reached the P.S. at 11.35 a.m. and at the gate, she saw the appellant-Surender (whom she identifies in the court),

and who was posted as guard in the same Police Station, talking to a stranger near a corner of the premises. She then went straight to her duty room and while she was talking to the Head Constable Om Pal (PW-1) from whom she had to take the charge, and where constable Vinod (PW-17) and DHG Jai Singh (PW-5) were also present along with Munshi Gulzari Lal, she suddenly heard sounds of bullet shots in the compound of the Police Station. Then she saw the person with whom the appellant was having a conversation (i.e. the deceased) rushing towards the duty officers' room with his hands up in the air; and he was bleeding. She also saw Constable Surender (i.e. the appellant before this Court), chasing this person from behind, still firing from his 9mm carbine, aiming at the deceased. She as well as the head Constable Om Prakash, Constable Vinod and DHG Jai Singh bent down and took shield in order to avoid stray bullets. She then saw the deceased lying outside the room, bleeding profusely. By this time, she had realized that she too had received bullet injuries on her left shoulder. She was then taken to LBS Hospital by Head Constable Jai Prakash. It was in the hospital that she was informed that the deceased (Satish) was a relative of Surender and that he is now dead, due to the bullet injuries sustained in the firing.

11. The defence did not cross-examine this witness immediately after her examination-in-chief, but sought that the cross examination be deferred, which was done and she was cross-examined only on 30.11.2004, which is more than two months after her examination-in-chief. We may just stop here for a while only to sound a note of caution. Such long adjournment as was given in this case after examination-in-chief, should never have been given. Reasons for this are many, but to our mind the main reason would be that this may affect the fairness of the trial and may even endanger, in a given case, the safety of the witness. As far as possible, the defence should be asked to cross examine the witness the same day or the following day. Only in very exceptional cases, and for reasons to be recorded, the cross examination should be deferred and a short adjournment can be given after taking precautions and care, for the witness, if it is required. We are constrained to make this observation as we have noticed in case after case that cross examinations are being adjourned routinely which can seriously prejudice a fair trial.

12. This Court had, on more than one occasion, condemned this practice of the trial court where examinations are deferred without sufficient

reasons. We may refer here to some cases, which are **State of U.P v. Shambhu Nath Singh (2001) 4 SCC 667; Ambika Prasad v. State (Delhi Admn.) (2000) 2 SCC 646; Mohd. Khalid v. State of W.B. (2002) 7 SCC 334.**

13. As we have said cross examination can be deferred in exceptional cases and for reasons to be recorded by the Court, such as under sub-section 2 of Section 231 of CrPC[1] but even here the adjournment is not to be given as a matter of right and ultimately it is the discretion of the Court. In ***State of Kerala v. Rasheed*** **(2019) 13 SCC 297**, this Court has set certain guidelines under which such an adjournment can be given. The emphasis again is on the fact that a request for deferral must be premised on sufficient reasons, justifying the deferral of cross-examination of the witness.

As we could see from the records in the present case the cross examination of PW-2 was deferred precisely on grounds referred in sub-section (2) of Section 231 of CrPC. The defence requested to examine PW-2 with another prosecution witness (Vinod-PW-17). Yet the records of the case also reveal that though the cross-examination was deferred yet the other witness (PW-17) was examined much later, nearly a year after the cross examination of PW-2. We only wanted to record this cautionary note to make our point that this practice is not a healthy practice and the Courts should be slow in deferring these matters. The mandate of Section 231 of Cr.PC and the law laid down on the subject referred above must be followed in its letter and spirit.

Thankfully, in the case at hand, the deferred cross-examination of PW-2 has not affected the course of the trial. This witness has remained consistent.

14. PW-19 is Dr. S.B. Jangpangi, Casualty Medical Officer posted at LBS Hospital Delhi, who had examined PW-2 as she had received bullet injuries on that fateful day. PW-19 in his statement mentions that two injuries were found on Panwati's (PW-2) body. PW-19 had

1 **231. Evidence for prosecution.**—(1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution.
(2) **The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.**

also examined the deceased who was declared dead by him and found his body riddled with bullet injuries.

15. PW-1, Ompal Singh, who was posted as head constable in P.S. Mayur Vihar is another key prosecution witness. He says that he was working as duty officer on 30.06.2002 in place of WHC Panwati (PW2). After PW-2 reported for her duties Constable Vinod (PW-17), DHG Jai Singh and PW-1 were also in the duty officers' room. He recounts that on the day of the incident he heard sounds of firing at about 11.35 a.m. and saw a person with blood-stained clothes (i.e. the deceased) trying to reach the duty officers' room. He was being chased by the appellant, who was identified by this witness in court. He states that the police staff tried to save their own life in the duty officer's room and then saw the deceased lying on the ground. Constable Panwati (PW-2) also sustained bullet injuries in this firing. He then gave a wireless message of the incident to the SHO. This witness was cross examined later but again nothing has come in the cross to doubt the statement of this witness.

16. PW-11 and PW-17 were again, Head Constable and Constable respectively, who were posted at this police station on that fateful day of June 30, 2002. They were also witness to the crime and their deposition states similar facts as narrated by PW-1 and PW-2.

17. The post-mortem was conducted on 01.07.2002 by Dr. Vinay Kumar Singh (PW18) of LBS Hospital. He found 17 ante mortem injuries on the body of the deceased. He confirms his post-mortem report, in his deposition, where in his opinion the cause of death was shock resulting from fire arm injuries. He states that the injuries on the chest and on the back of the deceased were sufficient to cause his death. He also mentions that bullets were also recovered from the chest cavity of the deceased and one bullet was recovered from the right side of the back. There were 6 fire-arm entry wounds corresponding to 6 fire-arm exit wounds. At least one fire-arm entry wound has a blackening at the entry point which shows that this was fired at a point-blank range.

18. In all, the deceased had received 8 to 9 shots from the carbine of the appellant which are spread all over his body. Entry wounds exist on the front as well as on the back of the deceased's body, which makes it clear that the deceased was shot not only from the front but also from the back, while he was trying to escape. The nature

of these injuries corroborates with the ocular testimony of PW-2. It is PW-2 who had said that when she came to the Police Station, she had seen the deceased talking to the appellant at the gate of the police station and that the appellant was armed with a carbine. PW-21, Constable Devender Kumar who had to take the charge of 'sentry'/guard at 12 noon, also states that he saw the appellant talking to the deceased before the incident. PW-2 heard the sound of firing few minutes later and then saw the deceased (who was bleeding) rushing towards the duty room with his hands in the air, and the appellant was seen firing at him from behind.

19. Taken together, all these evidences are unassailable. The case of the prosecution stands secured on these evidences. It is a clear case of murder. The motive for the appellant (admittedly the deceased was having an affair with the appellant's wife), and the execution of the crime at the Police Station, all point towards the murder committed inside the police station by the present appellant. The one fire arm injury with blackening at the entry point also explains that the deceased was first shot from a close range. The remaining injuries also correlate with the testimony of the eye witnesses referred above.

20. The plea of self-defence and in the alternative the plea of grave and sudden provocation taken by the appellant is based on the theory that it was the deceased who came to the police station in full speed in his car thereby first hitting the gate of the police station and then making an attempt to snatch the weapon from the appellant in order to kill him. But these arguments do not hold any ground and most importantly there is not even an iota of evidence to sustain this bizarre line of defence.

21. Under Section 105 of the Indian Evidence Act[2], the burden of proof that the accused's case falls within the general exception is upon the accused himself. This Court in ***State of M.P. v. Ramesh*, (2005) 9 SCC 705** observed that:

> *"Under Section 105 of the Indian Evidence Act, 1872 (in short "the Evidence Act"), the burden of proof is on the*

2 **105. Burden of proving that case of accused comes within exceptions**.—When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code (XLV of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

> *accused, who sets up the plea of self-defence, and, in the absence of proof, it is not possible for the court to presume the truth of the plea of self-defence. The court shall presume the absence of such circumstances……Where the right of private defence is pleaded, the defence must be a reasonable and probable version satisfying the court that the harm caused by the accused was necessary for either warding off the attack or for forestalling the further reasonable apprehension from the side of the accused."*

This burden of proof though is not as onerous as the burden of proof beyond all reasonable doubts which is on the prosecution, nevertheless some degree of reasonable satisfaction has to be established by the defence, when this plea is taken. (*See : **Salim Zia v. State of U.P.**, **(1979) 2 SCC 648***).

22. In the case at hand, the defence has not been able to establish a case of private defence by any evidence. There is no evidence on this aspect and therefore this plea was rightly rejected by the Trial Court as well as the Appellate Court.

23. In fact, the plea of self-defence taken by the accused/appellant is childish to say the least, in the light of the facts of the case, and on the weight of the evidence of the prosecution. The case of the defence that the deceased came to the Police Station "unarmed" to kill the appellant knowing very well that the appellant was armed with a weapon is an awkward attempt to present the deceased as the aggressor. It does not make any sense. What is most important here is the eye-witness accounts of PW-2, PW-1, PW-11 & PW-17, which prove that the appellant did not stop at the initial firing of the shot, which he had fired from a close range (the entry wound of gun shot with blackening). Instead, he continued to spray bullets on the deceased even when he was trying to escape. The eye witness accounts of four police personnels who were all present at the Police Station at that point of time, establish a case of murder beyond any reasonable doubt.

24. The defence again has not even been able to discharge its burden by showing that it is a case of grave and sudden provocation, though an attempt has been made by the defence to bring the case under Exception I to Section 300 IPC. There is however, nothing on record to show that the deceased hit the car at the gate of the

Police Station, which was found parked inside that Police Station with no scratch on its body, thus disproving that it had hit the gate as was the case of the defence. Moreover, all the facts which have been placed before the Court show that it was the appellant who had a motive to kill the deceased as the deceased was having an illicit relationship with his wife. In spite of best efforts by the family members of the appellant and the deceased, the deceased continued with this relationship with the wife of the appellant. This was hence the motive for the appellant to kill the deceased.

25. The appellant would argue that the Act attributable to him would fall under Exception 1 to Section 300 of the Indian Penal Code, which reads as under:

> *"Exception 1.—When culpable homicide is not murder.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident.*
>
> *The above exception is subject to the following provisos:—First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.*
>
> *Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.*
>
> *Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.*
>
> *Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact."*

According to the defence, the death of the deceased was caused by the appellant when the appellant was deprived of his power of self-control due to grave and sudden provocation caused by the deceased which resulted in his death by accident.

This court has reiterated in more than one cases right from ***K.M. Nanavati*** *v.* ***State of Maharashtra*** ***AIR 1962 SC 605*** onwards that

provocation itself is not enough to reduce the crime from murder to culpable homicide not amounting to murder. In order to convert a case of murder to a case of culpable homicide not amounting to murder, provocation must me such that would temporarily deprive the power of self-control of a "reasonable person". What has also to be seen is the time gap between this alleged provocation and the act of homicide; the kind of weapon used; the number of blows, etc. These are again all questions of facts. There is no standard or test as to what reasonableness should be in these circumstances as this would again be a question of fact to be determined by a Court. ***Nanavati*** (supra) answers this question as follows:

> *"84. Is there any standard of a reasonable man for the application of the doctrine of "grave and sudden" provocation? No abstract standard of reasonableness can be laid down. What a reasonable man will do in certain circumstances depends upon the customs, manners, way of life, traditional values etc.; in short, the cultural, social and emotional background of the society to which an accused belongs. In our vast country there are social groups ranging from the lowest to the highest state of civilization. It is neither possible nor desirable to lay down any standard with precision : it is for the court to decide in each case, having regard to the relevant circumstances. It is not necessary in this case to ascertain whether a reasonable man placed in the position of the accused would have lost his self-control momentarily or even temporarily when his wife confessed to him of her illicit intimacy with another, for we are satisfied on the evidence that the accused regained his self-control and killed Ahuja deliberately.*
>
> *85. The Indian law, relevant to the present enquiry, may be stated thus : (1) The test of "grave and sudden" provocation is whether a reasonable man, belonging to the same class of society as the accused, placed in the situation in which the accused was placed would be so provoked as to lose his self-control. (2) In India, words and gestures may also, under certain circumstances, cause grave and sudden provocation to an accused so as to bring his act within the First Exception to Section 300 of the Indian Penal Code. (3) The mental background created by the*

> *previous act of the victim may be taken into consideration in ascertaining whether the subsequent act caused grave and sudden provocation for committing the offence. (4) The fatal blow should be clearly traced to the influence of passion arising from that provocation and not after the passion had cooled down by lapse of time, or otherwise giving room and scope for premeditation and calculation."*

In the present case on every possible count the case is nothing but a case of murder. The nature of weapon used; the number of gun shots fired at the deceased; the part of the body where gun shots are fired, all point towards the fact that the appellant was determined to kill the deceased. Ultimately, he achieved his task and made sure that the deceased is dead. By no stretch of logic is it a case of any lesser magnitude, and definitely not culpable homicide not amounting to murder.

The facts of the present case do not even remotely make out any case under Exception 1 to Section 300 of the IPC, or under any other Exception(s) to Section 300 of IPC.

26. In view of the above, we are not inclined to interfere with the findings of the Trial Court and the High Court. Accordingly, this appeal is dismissed. The interim order dated 02.04.2012 granting bail to the appellant, hereby, stands vacated and the appellant is hereby directed to surrender before the trial court within four weeks from today. A copy of this Judgment shall be sent to the Trial Court to ensure that the appellant surrenders and undergoes the remaining part of his sentence.

Result of the case: Appeal dismissed.

†*Headnotes prepared by:* Nidhi Jain