

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1331 OF 2011

PILLU @ PRAHLAD

Appellant(s)

VERSUS

STATE OF MADHYA PRADESH

Respondent(s)

WITH

CRIMINAL APPEAL NO. 253 OF 2013

JUDGMENT

These appeals are directed against the judgment and order dated 11.02.2010, as passed by the High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No. 766 of 2001, whereby the High Court has dismissed the appeal filed by the present appellants while maintaining their conviction of the offence under Section 302/34 of the Indian Penal Code, 1860 ('IPC') and sentence of life imprisonment with fine of Rs. 3,000/- each with default stipulations.

In challenge to the concurrent findings of fact, the learned counsel for the appellants has essentially put forward the submissions that in this case, the principal witnesses of the prosecution, namely, PW-1 Shankerlal and PW-11 Rameshwar Prasad could not have been relied upon for the reasons that PW-1 had not supported the prosecution case in entirety and was, in fact, declared hostile whereas PW-11 was introduced in the investigation

as an alleged eye-witness after twenty-two days of the lodging of FIR. In the second limb of submissions, learned counsel has argued that even taking the prosecution case on its face value, the offence against the appellants would not travel beyond the offence of culpable homicide not amounting to murder because, the case would be squarely covered by Exception 4 to Section 300 IPC. He has also referred to and relied upon the following passage in the decision of this Court in the case of *Pulicherla Nagaraju Alias Nagaraja Reddy v. State of A.P.*: (2006) 11 SCC 444: -

"29. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters – plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances

is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may."

Learned counsel for the respondent has opposed the submissions so made and has duly supported the judgment and order impugned, while referring to the statements of witnesses in their totality. He has also argued that the applicability of Exception 4 to Section 300 IPC is ruled out in the present case for the reason that it had not been a matter of sudden fight inasmuch as, per the version of the witnesses, it had not been an incident where the parties were engaged in fight with each other; and the version had been that the appellants assaulted the victim after trying to pressurize him to refrain from giving evidence in another criminal case.

So far as the submissions relating to the evidentiary value of the statements of prosecution witnesses is concerned, particularly that relating to PW-1 and PW-11, it is noticed that the Trial Court as also the High Court have thoroughly examined the entire record including the testimony of these two witnesses, before arriving at the conclusion of the guilt of the appellants. This aspect essentially lies within the arena of appreciation of evidence and we find no reason to take a different view of the matter. This is more so because having examined the statements of the said two witnesses, more particularly that of PW-1 Shankerlal, who had been the first informant of the case and had himself been injured in this incident, coupled with the other evidence on record, we are satisfied that the findings as regards involvement of the appellants in the incident leading to the death of the

victim Sanju are cogent findings of fact and no case for interference in that regard is made out.

So far as the contention based on Exception 4 to Section 300 IPC is concerned, its applicability is directly ruled out in the present case in view of the nature of incident as stated by the witnesses and then, with reference to the nature of injuries sustained by the deceased, like multiple incise wounds including that on the left frontal region of the skull as also stab wounds on the left side of the chest.

In view of the aforesaid, these appeals fail and are therefore, stand dismissed.

All pending applications also stand disposed of.

.....J.
[DINESH MAHESHWARI]

.....J.
[BELA M. TRIVEDI]

NEW DELHI;
SEPTEMBER 07, 2022.