

3. The occurrence took place on 22nd October, 1996 at about 1.00 p.m. when the accused and the deceased were working in the field of the accused appellant. Apparently, the deceased abused the accused appellant (accused No.1) and the accused No.1 had asked the accused No. 2 - one Anil, since acquitted, to bring a "kassi (spade)" which the accused No.2 obliged. With the aforesaid weapon [i.e. kassi (spade)] the accused No.1, the appellant herein, is reported to have injured the deceased who succumbed to her injuries four days after the alleged incident. The report of the post-mortem indicated nine (09) incised wounds on the neck of the deceased.

4. The crime was witnessed by Jagdish Kumar (P.W. 6) and Rajiv @ Raju (P.W. 7) and the presence of nine (09) injuries on the neck of the deceased has been testified by Dr. A.S. Basra (P.W.1), who performed/ conducted the post-mortem examination of the deceased.

5. The presence of the accused No.2 at the spot has been disbelieved by the High Court. If that is so, the prosecution case to the effect that

the accused No.2 had handed the weapon of offence to the accused no.1 has to be ruled out.

6. Having regard to the fact that the incident occurred in the agricultural field we are of the view that it would be reasonable to presume that the weapon of offence i.e. Kassi (spade) was readily available which was used by the accused to commit the crime. However, the reluctance of the High Court to accept the presence of the accused No.2 at the spot and our acceptance of the said finding can reasonably lead to a conclusion that the incident had occurred without any premeditation on the part of the accused. The death took place four days after the alleged incident. In these circumstances, if one learned judge of this Court had taken the view that fourth exception to Section 300 IPC is attracted, we are of the view that the same should commend to us for acceptance in the facts of the case. The fourth exception to Section 300 IPC may be conveniently reproduced hereunder:

"Exception 4 to Section 300 IPC. - Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage

or acted in a cruel or unusual manner.”

7. We, therefore, agree with the aforesaid view and close the appeal by convicting the accused appellant under Section 304 Part I IPC and sentencing him to a period of 10 years imprisonment which, we are told, he has already suffered.

8. The appeal is disposed of in the above terms.

9. We express our gratitude to Shri S. Nagamuthu, learned Senior Counsel for rendering his services to the Court as the Amicus.

.....,CJI.
(RANJAN GOGOI)

.....,J.
(L. NAGESWARA RAO)

.....,J.
(SANJAY KISHAN KAUL)

NEW DELHI
JANUARY 09, 2019

ITEM NO.105

COURT NO.1

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

C R I M I N A L A P P E A L N O (S) . 2 0 9 4 / 2 0 0 8

AJIT SINGH

APPELLANT(S)

VERSUS

THE STATE OF PUNJAB

RESPONDENT(S)

Date : 09-01-2019 This appeal was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

Mr. S. Nagamuthu, Sr. Adv. (A/C)
Ms. Noopur Dubey, Adv.
Mr. Arun Prakash, Adv.

For Appellant(s)

Mr. Vinay Kumar Garg, Sr. Adv.

For Respondent(s)

Mr. Karan Bharihoke, AOR
Mr. Kaushal Narayan Mishra, Adv.
Mr. Siddant Sharma, Adv.
Ms. Navkiran Bolay, Adv.

Mr. Kuldip Singh, AOR [N/P]

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

[VINOD LAKHINA]

AR-cum-PS

[ANAND PRAKASH]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]