2024 INSC 937

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024
(ARISING OUT OF SLP (CRL.) NO. 4403 OF 2023)

KUNHIMUHAMMED@ KUNHEETHU ...APPELLANT

VERSUS

THE STATE OF KERALA ...RESPONDENT

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.
2. This appeal assails the correctness of the judgment and order dated 18.09.2018 whereby the appeal of the appellant-accused no.1, against his conviction under sections 302, 324 and 326/34 of Indian Penal Code, 1860[1] has been dismissed. The prosecution story in brief is:

[1] IPC

2.1. On 10.04.2006, the sympathizers of United Democratic Front (UDF) and Left Democratic Front (LDF) fought against each other in connection with the dispute regarding the drawing of their election symbol at a place near a library in Kunnappalli, Pathaikkara Village. A criminal case with non-bailable offences was registered against the sympathisers of UDF in connection with the above incident.

2.2. On 11.04.2006, The appellant along with the other accused who are sympathisers of Indian Union Muslim League on account of above enmity and with the intention to commit murder of deceased Subrahmannian and CW-1 Vasudevan Ramachandra, waited at Mukkilaplavu Junction for their arrival and at about 08:45 PM when the deceased along with Vasudevan Ramachandra reached at the above-mentioned place, the first accused attempted to beat the deceased with a tamarind stick, on his head. The deceased saved himself from the said attack and snatched the stick from the first accused and started

assaulting the first accused on his forehead and back with the same stick. At this stage, the first accused took out a knife from his hip region and stabbed the deceased on the left side of chest, back of the head and the left shoulder. On seeing the above incident, CW-1 made an attempt to obstruct the first accused from assaulting the deceased, however, the first accused stabbed him on the left side of the buttock of CW-1 with the same knife. When CW-1 fell on the ground, the second accused caused a fracture on the right foot bone of CW-1 by beating him with another tamarind stick. Thereafter, the third accused assaulted CW-1 by beating on his right chest with a wooden stick.

2.3. After the said incident, the injured and the deceased were taken to the Maulana Hospital where Additional Sub-Inspector CW-32 reached and recorded the statement of CW-1 on the basis of which the First Information Report was registered as Crime No.260 of 2006 against the three accused under sections 302/324 read with

section 34 IPC. The accused were thereafter arrested. The Investigating Officer prepared the inquest report, spot map, and recovered the knife under the seizure memo on the basis of the disclosure statement made by the first accused.

2.4. After completing the investigation, the charge sheet was submitted under sections 302/307 read with section 34 IPC. The Magistrate took cognizance and committed the case for trial to the Sessions Court. The Trial Court framed the charges under the aforesaid sections and read them over to the accused who denied the same and claimed trial.

3. The Prosecution examined 19 witnesses and filed 28 Exhibits and 18 material objects. The statements of the accused under section 313 of Code of Criminal Procedure, 1973[2] were recorded wherein again they claimed that they were innocent and had nothing to do with the said incident. They claimed to have been falsely implicated on account

[2] CrPC

of political rivalry at the instance of the leaders of Communist Party of India (Marxist) (CPI(M).

4. The Trial Court after appreciating the evidence led by the parties held that the appellant was found guilty of offences punishable under sections 302, 324 and 326/34 IPC and accordingly sentenced him to life imprisonment with a fine of Rs.1 Lakh under section 302, IPC, six years rigorous imprisonment with a fine of Rs.25,000/- under section 326, IPC, and two years imprisonment under section 324, IPC. Accused no.2 was found guilty of offences punishable under section 326 and under sections 324/34 IPC and he was sentenced to six years imprisonment under section 326, IPC with a fine of Rs.25,000/- and two years rigorous imprisonment under section 324 IPC. The third accused was also awarded the same sentence as accused no.2. The sentences were to run concurrently.

5. Three appeals were preferred before the High Court by the three accused separately. The High Court by the impugned order dismissed all the three appeals.

The second accused and the third accused had preferred a separate SLP registered as SLP(Crl.) No.2822 of 2019. In the said SLP, leave was granted, and it was partly allowed vide judgment and order dated 29.07.2019. This Court extended benefit of doubt to accused no.3 whereas accused no.2's conviction was upheld, however, his sentence under section 326 for six years was reduced to three years.

6. We have heard Shri Nikhil Goel, learned senior counsel appearing for the appellant and Shri P.V. Dinesh, learned senior counsel appearing for the State of Kerala and perused the material on record. The submissions of Shri Goel are limited to the extent that this was not a case of premeditated pre planned murder. There was no *mens rea* for committing culpable homicide amounting to murder. The intention was only of assaulting with the stick but later on during the fight as the deceased overpowered the appellant and started assaulting him with the same stick after snatching it from the appellant, the appellant pulled out the

knife from his back and stabbed the deceased and also the injured to save him. He has drawn attention to the evidence on record as also to the judgment of the Trial Court wherein specific finding was recorded to that extent by the Trial Court but despite the same, the Trial Court proceeded to record conviction under section 302 IPC and not section 304 IPC.

7. He also submitted that the appellant is aged 67 years and is suffering from multiple ailments and that having undergone almost twelve and half years of actual sentence, this Court may consider reducing the sentence by converting the conviction to under section 304 IPC Part II.

8. On the other hand, Mr. P.V. Dinesh, learned senior counsel appearing for the respondent-State submitted that the Trial Court and the High Court have both dealt with this aspect of the matter and have concurrently found that this was a case of culpable homicide amounting to murder. The fact that the appellant was carrying a knife and the number of assaults made by him on the deceased

as also the injury would clearly show that the intention was to commit murder.

9. Having heard the learned counsels for the parties, we find it imperative to look into the evidence, witness testimonies, and injury reports to better understand and analyse the incident to see whether the culpable homicide in the present case amounts to murder or not. A meticulous analysis of the evidence on record is necessary to check whether the appellant had the intention to kill the deceased or if he can be given the benefit of reduction of sentence on the grounds pleaded in the appeal. To understand the evidence and their probative value in establishing the offence, it is necessary to look at the categorical findings of both the courts below.

FINDINGS OF THE TRIAL COURT

10. The Trial Court found appellant guilty of offences under Sections 302, 326, and 324, IPC. The Trial Court's findings were primarily based on the direct testimony of PW1, an eyewitness who was also injured in the incident, and corroborative evidence from medical and forensic reports.

11. The evidence of PW1 was crucial to the prosecution's case. The Trial Court carefully analyzed his testimony and found it credible, reliable, and consistent with the injuries sustained by the deceased and PW1, as recorded in the medical reports. Although the defense argued that PW1 was an interested witness and highlighted omissions and contradictions in his testimony, the Trial Court concluded that these discrepancies were minor and did not affect the core narrative. The Trial Court also noted that PW1's statements were corroborated by PW2, who arrived at the scene shortly after the incident and observed the accused fleeing. PW2's account was deemed trustworthy and supported the prosecution's version.

12. The recovery of the murder weapon (a knife, marked as MO1) at the instance of appellant was a significant factor in the Trial Court's findings. The knife was recovered under Section 27 of the Indian Evidence Act, 1872 based on information provided by appellant during his custodial interrogation. Forensic examination confirmed that the knife bore

human blood matching the deceased's blood group. This finding provided compelling corroboration of PW1's testimony regarding the role of Accused No. 1 in the fatal assault. Additional physical evidence, such as blood-stained sticks recovered from the crime scene, further substantiated the prosecution's case.

13. Medical evidence also played a vital role. The postmortem report of the deceased, prepared by PW-6 (a police surgeon), confirmed that the cause of death was multiple stab injuries inflicted with a sharp-edged weapon like MO1. PW6 identified specific fatal injuries to the heart and lungs, which were consistent with the prosecution's narrative of the assault. Similarly, the wound certificate of PW1 corroborated his account of the injuries he sustained during the attack. The Trial Court observed that the injuries detailed in the medical reports aligned with the testimonies of PW1 and PW2, reinforcing the prosecution's case.

14. The defense attempted to argue that the incident occurred in the exercise of private defense, claiming

that the accused were attacked by CPI(M) workers, including the deceased and PW1. However, the Trial Court rejected this claim, finding it unsubstantiated and improbable. The injuries on appellant, documented in the wound certificate, were deemed minor and inconsistent with the defense's narrative of a large-scale attack. The Court concluded that the accused were the aggressors and were not entitled to claim the right of private defense.

15. Ultimately, the Trial Court held that the prosecution had proved beyond reasonable doubt that appellant intentionally caused the death of Subrahmannian and grievously injured PW1. The recovery of the murder weapon, corroborative forensic and medical evidence, and the reliable testimony of PW1 and PW2 were central to this conclusion. Accordingly, appellant was convicted under Sections 302, 326, and 324 IPC and sentenced to life imprisonment for the murder charge, along with additional terms for the other offenses.

FINDINGS OF THE HIGH COURT

16. The High Court of Kerala meticulously analyzed the roles and culpability of each accused based on the evidence presented during the trial. The findings highlight the distinct involvement of each accused in the crime, with a particular focus on the actions of appellant. This comprehensive assessment ensures that the degree of liability is proportionate to their individual actions and intentions as discerned from the evidence on record.

17. The High Court affirmed the findings of the Trial Court that Accused No. 1 played a pivotal role in the murder. The evidence of PW-1, an injured eyewitness, was central to establishing the sequence of events. PW-1 testified that appellant first beat the deceased with a wooden stick, causing injuries to his left shoulder. When the deceased tried to flee, appellant – accused no. 1 drew the knife and inflicted a stab wound to his back. As PW-1 intervened to protect the deceased, appellant– turned on him, stabbing him in the buttock. This

act of aggression was corroborated by medical evidence, which indicated that PW-1 sustained injuries consistent with the use of the weapon recovered during the investigation. Despite PW-1's injuries, appellant resumed his attack on the deceased, stabbing him multiple times in the chest and other vital areas.

18. The High Court emphasized the significance of the post-mortem report, which revealed eight incised wounds on the deceased, including fatal injuries to the chest, heart, and lungs. PW-6, the police surgeon, testified that these injuries were consistent with the knife recovered and that the fatal wounds were sufficient in the ordinary course of nature to cause death. The chemical analysis linking the knife to appellant was further corroborated by the presence of human blood matching the deceased's blood group on the weapon. The recovery of the knife, facilitated by a disclosure statement from appellant, lent further credence to the prosecution's case.

19. The High Court also addressed the appellant's argument that the testimony of PW-1 was unreliable due to alleged embellishments regarding the number of stab injuries. The Court rejected this contention, noting that minor omissions in the First Information Statement (FIS) could not undermine the credibility of PW-1's account, especially given the traumatic circumstances under which the FIS was recorded. The court reasoned that PW-1, having sustained a stab injury himself, may not have been able to provide exhaustive details at the time but consistently identified appellant – accused no. 1 as the primary assailant. The testimony of PW-2, an independent eyewitness, corroborated PW-1's account, further strengthening the prosecution's case against appellant.

20. The High Court concluded that the actions of appellant demonstrated clear intent to cause death. The deliberate targeting of vital organs with a sharp weapon indicated premeditation or, at the very least, the formation of intent during the incident. The court observed that while the altercation may

have initially involved the use of sticks, appellant's decision to escalate the violence by drawing and using a knife was an intentional and unilateral act. This conduct set him apart from the other accused, whose actions were limited to assaulting the victims with sticks.

21. In contrast, accused nos. 2 and 3 were found guilty of lesser offenses under Section 326 IPC for causing grievous hurt to PW-1. The evidence established that they used sticks to beat PW-1, resulting in non-fatal injuries, including a fracture to his leg. The High Court concurred with the Trial Court's finding that there was insufficient evidence to prove that Accused Nos. 2 and 3 shared a common intention with appellant to commit murder. The court noted that there was no evidence to suggest that they were aware of the knife concealed by appellant or his intent to use it. This lack of knowledge precluded the application of Section 34, IPC to hold them vicariously liable for the murder.

22. The High Court underscored the principle that liability must be determined based on the specific

actions and intentions of each accused. While accused nos. 2 and 3 were complicit in the assault, their participation did not extend to the homicidal attack perpetrated by accused no. 1. The court further noted that the initial assault with sticks did not indicate a pre-arranged plan to kill the deceased. Had there been such an intention, the attack would have begun with the use of the knife rather than sticks.

23. The High court also dismissed the appellant's plea for leniency based on parity with the co-accused. It emphasized that the role of appellant was materially different and far more culpable than that of accused Nos. 2 and 3. The fatal injuries inflicted by appellant on the deceased were deliberate, targeted, and intended to cause death, whereas the actions of the co-accused were confined to non-fatal assaults on PW-1. The principle of parity, therefore, did not apply in this case.

24. The High Court upheld the conviction of appellant under Section 302 IPC for the murder of Subrahmannian. The court noted that the evidence

against him was overwhelming, including eyewitness testimonies, medical reports, and forensic findings. The sentences imposed on Accused Nos. 2 and 3 under Section 326 IPC were also affirmed, as they appropriately reflected their limited roles in the incident.

FINDINGS ON THE GROUNDS FOR REDUCTION OF SENTENCE

25. **SCUFFLE AND LACK OF INTENT**: The appellant's counsel has argued that the incident arose out of a scuffle between two rival factions, during which the act of stabbing and killing the deceased was not premeditated but rather occurred spontaneously in the heat of the moment. According to the appellant, there was no deliberate intent to commit murder, and the unfortunate event resulted from a confrontation that escalated during the altercation. However, this submission has been closely examined and dismissed by both the Trial Court and the High Court, based on substantial evidence presented during the proceedings.

A. Fatal Injuries:

25.1 The severity of the injuries inflicted on the deceased has been central to the Courts' conclusion that the act qualifies as murder under Section 300 of the IPC. As per the post-mortem report, the deceased sustained both external and internal ante-mortem injuries that were identified as being inflicted by a sharp-edged knife. These injuries, detailed in the Trial Court's order, include multiple incised penetration wounds to vital regions such as the chest, rib cage, lungs, and heart.

25.2 The evidence of PW-6, the police surgeon who conducted the post-mortem examination, was instrumental in establishing the fatal nature of the injuries. He testified that the death resulted from multiple injuries, including several incised wounds caused by the knife recovered during the investigation. The injuries sustained by the deceased, as per the report, were as follows:

<u>External Antemortem Injuries:</u>

1. (a) Incised wound 4x2x0.5cm involving back of right side of head, horizontal, upper inner end at

2 cm below occiput and 2 cm outer to midline back, with tapering ends.

2. Incised penetrating wound 12x3xl-2cm involving top and back of left shoulder, extending vertically downwards and backwards, upper inner end at 17 cm outer to mid line front and on top of shoulder.
3. (a) Incised penetrating wound (stab wounds) 3x2x3.5cm involving front of left chest, oblique, upper end near to midline front than lower, upper inner end at 12 cm outer to midline front and II cm below middle of collar bone, directed downwards. backwards and right wards, with tapering ends, and contusion of margins.
4. (a) Incised penetrating wound (stab wound) 2xl.5x3.5cm including · front of right chest, oblique, upper end away from midline front than lower end, upper inner end at 10 cm outer to midline front and 17 cm below middle of collar bone, directed downwards, backwards and leftwards, with tapering ends and contusion of margins.

5. Incised wound 2x0.8x0.5cm involving dorsum of left hand at the root of middle finger.

Internal Antemortem Injuries:

1. (b) Contusions of scalp 17x10 em involving front half and 5x3cm involving right side of back. Inter one is. under neath and around the injury No. 1 -(a).
2. (b) (i) contusion 23x9cm involving left front chest wall upper inner end at collar bone and in midline front.

(ii) Incised penetrating wound 8x0.5x I cm involving left front chest wall (rib cage and inter costal muscles), oblique, which penetrates into chest cavity, with fracture separation of 3rd and 4th ribs and contusion of edges the upper inner end at I 0 cm outer to midline front and 9 cm below middle of collar bone.

(iii) Incised penetrating wound 7x2x1.5 em involving left atrium and upper part of left ventricle of heart, which penetrates through entire thickness of antero lateral wall into

cavity, tearing mitral valve leaflets, with contusion at the edges of the wound.

(iv) Laceration of left lung 4xlx0.5cm involving outer aspect of upper lobe and 2x2x0.5cm including outer aspect · of lower lobe and contusion 6x3 cm involving outer aspect of lower lobe just below the previous injury

Injury No. 3 (b) is underneath and corresponds with and continuation of injury no. (3) (a), and total depth of both injuries taken together is 6 cm.

4.(b) (i) Contusion 10x7 cm involving right front chest wall upper inner end at 13 cm belowcollar bone and in midline front.

(ii) Incised penetrating wound 4x2x2cm involving right front chest wall (rib cage and intercostale muscles), oblique, penetrates into the chest cavity, with fracture separation of 5th rib, the upper inner end at 9 cm outer to midline front and 20 cm below middle of collar bone, with contusion of edges.

(iii) Laceration of right lung 2xlx0.5 cm involving outer aspect of middle lobe.

Injury No. (4) (b) is underneath, corresponds with and continuation of injury No. (4) (a) and the total depth of both injuries taken together is 5 cm.

25.3 Among the injuries, some were specifically identified as fatal, including:

i. Penetrating wounds to the chest and rib cage. These injuries caused significant trauma to the internal organs, including the lungs and heart.

ii. Laceration of the heart. The most critical injury involved a penetrating wound measuring 7x2x1.5 cm in the left atrium and the upper part of the left ventricle, which extended through the entire thickness of the anterolateral wall of the heart. This injury also tore the mitral valve leaflets and caused contusions at the edges of the wound. The medical expert opined that this particular injury was sufficient to cause death in the ordinary course of nature. Additionally,

other injuries inflicted on the deceased were of such severity that they compounded the fatal outcome.

25.4 This Court held in **Virsa Singh** vs. **State of Pepsu**[3], that to see whether the injury intended and thus caused by the accused was sufficient in the ordinary course of nature to cause death or not, it must be examined in each case on the basis of the facts and circumstances. In that case, the injury was caused with a knife blow to the stomach and it was inflicted with such force that the knife penetrated the abdomen of the deceased and caused injuries to the bowel. The expert opinion of the doctor therein stated on record that such an injury was sufficient in the ordinary course of nature to cause death. Further, in the absence of any evidence or circumstances to prove that the injury was accidental or unintentional, it was presumed that the accused had intended to cause such injury,

[3] 1958 SCR 1495

thus making it fall under clause 3 of Section, 300 IPC.

25.5 It has been held by this Court in several cases such as **Manubhai Atabhai** vs. **State of Gujarat**[4], and **Arun Nivalaji More** vs. **State of Maharashtra**[5], that when the ocular evidence of eye witnesses are reliable and well corroborated by medical, and other evidence also inspires the confidence that the accused had the intention to cause such fatal injuries, then such evidence is enough to prove the charge of murder beyond reasonable doubt. This intention is to be gathered from a number of circumstances and evidence like the place of injury the nature of the weapon, the force applied while inflicting the injury, and other such considerations. Whether the accused had any intention to kill the deceased has to be judged upon taking into consideration the facts of each case.

[4] (2007) 10 SCC 358
[5] (2005) 12 SCC 613

25.6 This position has been elaborated by this Court in the case of **Nishan Singh** vs. **State of Punjab**[6], where the accused person had snatched the weapon carried by someone else and brutally inflicted injuries on the deceased. The Court stated that in such a case it cannot be said that he did not have the intention to cause death.

25.7 The prosecution established beyond doubt that these injuries were inflicted by the appellant–accused no. 1 using a knife, which was recovered during the investigation based on the appellant's disclosure statement. PW-18, the Investigating Officer, corroborated this recovery, and the seizure report was further attested by PW-16, an independent witness. Further, the doctor PW-6 has stated that these injuries are sufficient to cause death in the ordinary course of nature. Cross-examination of these witnesses did not reveal any inconsistencies that could undermine the credibility of the evidence. Consequently, the

[6] (2008) 17 SCC 505

courts have rightly concluded that the fatal injuries inflicted by the appellant were the direct cause of the deceased's death.

B. Intention to Commit Murder

25.8 The appellant's primary defence has been the absence of intent to commit murder. However, intent can be inferred from the circumstances surrounding the act, including the nature and location of the injuries inflicted, the weapon used, and the actions of the appellant during the incident. The injuries were concentrated on the vital parts of the deceased's body, such as the chest and ribs, which house critical organs like the heart and lungs. The deliberate targeting of these areas indicates a clear intent to cause harm that could lead to death. According to the testimony of the injured eyewitness, the appellant stabbed the deceased with considerable force, further corroborating the prosecution's argument that the injuries were inflicted intentionally or at least with the knowledge of their natural consequence. While other co-accused were

reportedly armed with sticks, the appellant–accused no. 1 was in possession of a sharp knife, which was used to inflict severe injuries. The decision to carry and use such a weapon during the scuffle reflects a readiness to escalate violence beyond a mere physical altercation. Even if the appellant did not have a prior intention to murder the deceased, the circumstances demonstrate that such injuries were caused which were sufficient in the ordinary course to cause death. The deliberate act of stabbing vital parts of the body, coupled with the force used, indicates that the appellant must have been aware of the likely fatal consequences of his actions. Under the provisions of Section 300 IPC, an intention to cause such injuries that are sufficient in the ordinary course of nature to cause death qualifies as murder, and even if ingredients other than intention to cause murder are proved, mere knowledge of the result of fatal actions is enough to ascribe culpability to the accused person.

25.9 The lower courts have also dismissed the appellant's argument that the act was not premeditated. While the attack may not have been planned in advance, intent can emerge in the heat of the moment, particularly during a violent confrontation. The appellant's decision to use a lethal weapon and the precise targeting of the victim's vital organs are sufficient to establish the requisite intent for murder or at least knowledge of the possible consequences of one's actions and to hold the appellant liable for death of the deceased as per clause 3 of Section 300, IPC.

25.10 This Court held in ***Virsa Singh (Supra)***, that the prosecution must prove that there was an intention to inflict that particular injury, that is to say that the injury was not accidental or unintentional or that some other kind of injury was intended, and that particular injury was sufficient in the ordinary course of nature to cause death.

25.11 The third clause of section 300 speaks of an intention to cause bodily injury which is sufficient in the ordinary course of nature to cause death. This Court in the above-mentioned judgment held that to bring the case under this part of the section the prosecution must establish objectively:

1. That a bodily injury is present;

2. That the nature of injury must be proved;

3. It must be proved that there was an intention to inflict that particular bodily injury;

4. That the injury inflicted is sufficient to cause death in the ordinary course of the nature.

25.12 The Court further held that:

> "13. Once these four elements are established by the prosecution (and, of course, the burden is on the prosecution throughout) the offence is murder under S. 300, "Thirdly. It does not matter that there was no intention to cause death. It does not matter that there was no intention even to cause an injury of a kind that is sufficient to cause death in the ordinary course of nature (not that there is any real distinction between the two). It does not

> even matter that there is no knowledge that an act of that kind will be likely to cause death. Once the intention to cause the bodily injury actually found to be present is proved, the rest of the enquiry is purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. No one has a licence to run around inflicting injuries that are sufficient to cause death in the ordinary course of nature and claim that they are not guilty of murder. If they inflict injuries of that kind, they must face the consequences; and they can only escape if it can be shown, or reasonably deduced that the injury was accidental or otherwise unintentional."

25.13 This position has further been upheld by this Court recently in the case of ***Vinod Kumar*** *vs.* ***Amritpal***[7], wherein the bench observed that:

> "24. Once the prosecution establishes the existence of the three ingredients forming a part of "thirdly" in Section 300, it is irrelevant whether there was an intention on the part of the accused to cause death. Further, it does not matter that there was no intention even to cause the injury of a kind that is sufficient to cause death in

[7] (2021) 19 SCC 181

ordinary course of nature. Even the knowledge that an act of that kind is likely to cause death is not necessary to attract "thirdly"."

25.14 This Court in the case of ***Balkar Singh*** *vs.* ***State of Uttarakhand***[8], while following the judgment in ***Virsa Singh (Supra)*** further elaborated the position of law and laid down that culpable homicide is murder if two conditions are fulfilled:

a. the act which caused death is done with the intention of causing death or is done with the intention of causing a bodily injury; and
b. the injury intended to be inflicted in sufficient in the ordinary course of nature to cause death.

25.15 The Court in the above-mentioned judgment clarified that even if the intention of accused was limited to inflicting a bodily injury sufficient to cause death in the ordinary course of nature, the offence of murder would still be made out.

25.16 The third clause of Section 300, IPC defines murder as the act of causing death by causing such bodily injury as is likely to result in death in

[8] (2009) 15 SCC 366

the ordinary course of nature. In the present case, the appellant's actions satisfy these criteria. The appellant was armed with a knife, which he used to inflict multiple injuries on vital organs. The fatal nature of these injuries, as confirmed by medical evidence, and the circumstances of the attack clearly point to an intent to cause death or at least an intention to inflict injuries with the knowledge that they were likely to result in death. Even if it is presumed that the appellant – accused no. 1 did not have an intention to cause such bodily injury, the act of causing injuries with knife to vital parts is reflective of the knowledge that causing such injuries is likely to cause death in the ordinary course.

25.17 The defence's argument that the incident was a spontaneous scuffle does not absolve the appellant of liability. While the scuffle may have triggered the attack, the appellant's use of a lethal weapon and the manner in which the injuries were inflicted elevate the act from culpable homicide to murder. Courts have consistently

held that intent can be inferred from the nature and severity of injuries, as well as the choice of weapon and the manner of its use. The use of a lethal weapon and the deliberate targeting of vital parts of the body are strong indicators of such intent.

25.18 In light of the evidence and the legal principles involved, the appellant's plea for leniency on the grounds of spontaneity and lack of premeditation cannot be sustained. The nature and location of the injuries inflicted, the choice of weapon, and the circumstances of the attack unequivocally establish the liability of the appellant for causing the death of Subrahmannian. The argument that the act was committed in the spur of the moment does not diminish the gravity of the offence or the appellant's culpability.

2. Plea of Private Defence: The appellant's counsel has invoked the right of private defence arguing that the act of stabbing was carried out under a perceived threat to the appellant–accused no. 1's life. It is further contended that the appellant

exceeded the bounds of lawful defence, thereby bringing the act within the ambit of Exception 2 to Section 300, IPC, which reads:

> "Culpable homicide is not murder if the offender, in the exercise of good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right."

26.1 To bring the appellant's act under section 304, IPC in light of the offence being committed in exercise of private defense and thereby exceeding the power given under the law, that is under exception 2 to section 300, IPC – the ingredients therein must be proved. The ingredients for this exception are:

1. The accused must be free from fault in bringing about the encounter;
2. There must be an impending peril to life or of great bodily harm, either real or apparent;
3. Injuries received by the accused;
4. The injuries caused by the accused;

5. The accused did not have time or opportunity to take recourse to public authorities.

26.2 This Court in **Darshan Singh v. State of Punjab**[9], held that the law provides for the right of private defense to citizens to enable them to protect themselves when confronted with imminent danger or unlawful aggression. But such protection must not be misused or extend beyond the necessities of the case.

26.3 The counsel for the appellant has argued that the appellant acted under a genuine belief of impending harm. However, this argument falls short upon scrutiny of the injuries sustained by the appellant during the altercation. As per the wound certificate, the appellant suffered only minor injuries:

i. A contusion on the back of the buttock.

ii. An abrasion over the forehead.

26.4 The medical evidence confirms that these injuries were superficial and did not pose any real or

[9] (2010) 2 SCC 333

imminent threat to the appellant's life or safety. The courts below have rightly concluded that the appellant's perception of danger was neither reasonable nor proportional to the force he employed in response. It is a settled position of law that the number of injuries on the accused side by itself may not be sufficient to establish right of private defense, as has been held by this Court in **V. Subramani** vs. **State of Tamil Nadu**[10]. But it has further been held that an overall view of the case has to be taken to check whether a case for private defense is made out from the evidence on record.

26.5 Even if the appellant claims to have acted in defense, his role in bringing about the altercation cannot be overlooked. The appellant cannot benefit from the exception when he was instrumental in creating the circumstances that led to the confrontation. It has been held in the case of **Sone Lal** vs. **State of U.P.**[11]**,** that when

[10] (2005) 10 SCC 358
[11] (1981) 2 SCC 531

the aggressors, even if they receive injuries from the victims of their aggression, cannot have the right of private defence. The courts below have made a categorical finding that the appellant–accused no.1 and his co-accused were the aggressors in the altercation. The attack was initiated by the accused group, who were armed with sticks and a knife, with the intent to intimidate or harm the victim and his companions. This fact is substantiated by the testimony of PW-1, an injured eyewitness, who described the sequence of events leading up to the stabbing. Even if it were assumed that the appellant–accused no. 1 acted in self-defense, the evidence overwhelmingly demonstrates that the force used was excessive and disproportionate. The act of stabbing the deceased multiple times in vital organs such as the chest and heart goes far beyond what is permissible under the right of private defense.

26.6 As noted in the post-mortem report and corroborated by the testimony of PW-6 (the police

surgeon), the injuries inflicted on the deceased were severe and intentional, including a fatal wound to the heart. The appellant's actions cannot be justified as a defensive response to the minor injuries he sustained.

26.7 In light of the above findings, the plea of exceeding the right of private defense under Exception 2 to Section 300, IPC, is not applicable to the appellant's case. The courts below have rightly rejected this argument, holding that the appellant was not under any imminent peril and that his actions were deliberate and excessive.

3. Parity with Other Accused Persons:

27.1 The appellant has further contended that his sentence should be reduced on the grounds of parity with his co-accused. It is argued that since one co-accused had his sentence reduced, and another was acquitted by this Court, the appellant should be afforded similar leniency. The appellant is seeking similar leniency on the ground that the circumstances and involvement of all accused were substantially similar.

27.2 The doctrine of parity ensures fairness in sentencing when co-accused persons are similarly situated and share the same level of culpability. However, parity is not an automatic entitlement; the role, intent, and actions of each accused must be individually assessed to determine their degree of involvement in the crime.

27.3 The evidence presented during the trial clearly establishes that the appellant played a distinct and more culpable role in the incident. While the co-accused were armed with sticks and caused non-fatal injuries to the victims, the appellant alone was armed with a knife and used it to inflict fatal injuries on the deceased. The testimony of PW-1 reveals that the appellant stabbed the deceased after his stick was snatched during the altercation. This sequence of events demonstrates a deliberate escalation by the appellant, who resorted to using a deadly weapon with the intent to cause grievous harm.

27.4 Nothing has been brought on record to show that the other accused persons had knowledge of appellant being in possession of the knife. Thus, there is no evidence to show that the other accused persons shared a common intention with the appellant to commit murder. The courts below have meticulously analyzed the evidence and concluded that the co-accused did not share a common intention to commit murder. While the group acted in concert to assault the victims, the fatal stabbing by the appellant was an independent and unilateral act. This finding is crucial in distinguishing the appellant's culpability from that of his co-accused. The absence of common intention among the co-accused precludes the application of vicarious liability under Section 34, IPC, for the act of murder.

27.5 The sentence of Accused No. 2 was reduced from six years to three years on the grounds that he caused only grievous hurt with a stick and did not participate in the stabbing and was also

unaware of the knife in possession of appellant. Accused no.3 was given the benefit of doubt and was acquitted due to lack of evidence linking him to the assault.

27.6 The courts have carefully evaluated the evidence against each accused and tailored their sentences accordingly. The appellant's argument for parity fails to recognize the qualitative differences in their roles and the gravity of their actions. The appellant's actions were not only more severe but also demonstrated a clear intent to cause death. The fatal injuries inflicted on the deceased, as detailed in the post-mortem report, leave no room for doubt about the appellant – accused no. 1's culpability. The courts below have correctly observed that the appellant's role in the crime is incomparable to that of his co-accused.

27.7 The principle of parity does not apply in the present case, as the appellant's actions were materially different from those of his co-accused. The sentence imposed on the appellant reflects

the gravity of his offense and his individual culpability.

28. **Plea of old age and deteriorating health:**

28.1 Another ground taken by the appellant for reduction in sentence is that he is a senior citizen and has severe health concerns necessitating continuous treatment and physiotherapy. This Court had once previously granted interim bail to the appellant on medical grounds owing to the fact that he had suffered a stroke and partial paralysis as a result.

28.2 The Court is cognizant of the appellant's advanced age and deteriorating medical condition, considerations that warrant a humane and compassionate approach to justice. These factors, when presented in cases of serious offences, often invite the judiciary to weigh individual circumstances against the broader interest of justice. However, the Court is also tasked with balancing these personal hardships against the severity and nature of the offence, as

well as its impact on the rule of law and societal harmony.

28.3 In the present case, the appellant has been convicted of murder, committed in the course of a group attack fueled by political rivalry. The act was not one of sudden provocation or impulse but arose from a premeditated and collective intent to harm the victim, even if the initial intention was to cause hurt. The evidence unequivocally establishes that the appellant actively participated in the attack, which culminated in the brutal stabbing of the victim in vital parts of the body, leading to his death. Such an act, carried out with the clear objective to eliminate the victim, underscores its heinous nature and deliberate execution.

28.4 While this Court has carefully considered the appellant's plea for leniency on account of old age and a medical condition, these factors alone cannot absolve or mitigate the responsibility for a crime of this magnitude. A murder committed

with the intent to target vital organs, particularly in a group setting, reflects a level of intent and cruelty that demands an appropriate punitive response. To reduce the sentence in such a case would risk undermining the seriousness of the crime and the sanctity of life itself, principles that the judicial system is duty-bound to uphold.

28.5 Furthermore, the offence occurred in a context of political rivalry, a factor that exacerbates its gravity. Crimes rooted in such motives often have far-reaching consequences beyond the immediate loss of life, contributing to social unrest and weakening public confidence in the rule of law. The Court must therefore ensure that its decisions reinforce the principle of accountability and deter the recurrence of such violent acts, particularly those that disrupt public order. The medical evidence, corroborated by eyewitness testimony and the recovery of the weapon, leaves no room for doubt. While the Court acknowledges the appellant's advanced age and medical condition, these factors cannot outweigh the need

for justice and the imperative to uphold the rule of law.

28.6 In light of the above, while we empathize with the appellant's personal circumstances, we find no compelling justification to interfere with the sentence imposed by the lower Court. The nature of the offence, its deliberate execution, and its societal implications necessitate that the punishment reflects the seriousness of the crime.

29. Lastly, once conviction under Section 302 of IPC is confirmed by all the Courts, then the minimum sentence is imprisonment for life, as provided under the provision itself. Thus, no ground or reason for granting a lesser sentence arises. When the minimum sentence itself is life imprisonment, then grounds like parity, leniency, old age, health concerns, etc. shall not be of any aid to the accused while seeking reduction of sentence. Therefore, the appellant herein has been granted the minimum sentence for committing the offence of murder.

30. After thoroughly examining the appellant's submissions and the evidence presented in the case, the Court concludes that the appeal against conviction and the request for a reduction in sentence are without merit. The findings of both the Trial Court and the High Court are well-founded and supported by compelling evidence.

31. The courts below have rightly concluded that the appellant's actions amount to murder under Section 300, IPC and thus punishable under Section 302, IPC. Accordingly, the appeal for reduction of the sentence is dismissed. The conviction and sentence are upheld.

.....J.
(VIKRAM NATH)

.....J.
(PRASANNA B. VARALE)

NEW DELHI
DECEMBER 06, 2024