

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 842/2009

STATE OF KERALA & ANR.

APPELLANT(S)

VERSUS

KURIACHAN JOSEPH @ KURIACHAN

RESPONDENT(S)

O R D E R

We have heard the learned counsel for the parties.

No doubt, because of the knife attack by the respondent/accused, victim-George @ Appachan died. However, the respondent/accused had put up right of private defence during the trial. The Trial Court accepted the plea of private defence on the testimony of PW-2. However, at the same time, the Trial Court came to the conclusion that the respondent/accused had exceeded the right of private defence. Accordingly, the case was found in terms of exception 2 to Section 300 and the respondent/accused was, accordingly, convicted for culpable homicide not amounting to murder under Part I to Section 304 of the Indian Penal Code, 1860 and sentenced to undergo rigorous imprisonment for six years and to pay a fine of Rs.20,000/- with default sentence. The respondent preferred appeal thereagainst. The High Court after going through the testimony of PW-2 has come to conclusion that the respondent had not exceeded the right of his defence. It has come on record that the deceased and respondent had quarrel with each other. In

fact, respondent/accused was heard pleading with the deceased to spare him and not to harm him. However, it did not have any effect on the deceased who tried to attack the respondent/accused with a pint bottle which the deceased was carrying. It is at that stage when the respondent/accused gave a knife blow to the deceased causing grievous hurt which was ultimately resulted fatal. On appreciation of the entire evidence, the High Court has come to conclusion that the respondent had not exceeded the right of private defence and he was not acting brutally or cruelly to inflict the injuries. These are the findings of facts and, therefore, we do not find any merits in this appeal.

This appeal is, accordingly, dismissed.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
JULY 13, 2017.

ITEM NO.115

COURT NO.7

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

Criminal Appeal No(s). 842/2009

STATE OF KERALA &amp; ANR.

Appellant(s)

VERSUS

KURIACHAN JOSEPH @ KURIACHAN

Respondent(s)

Date : 13-07-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. C. K. Sasi, AOR

For Respondent(s) Mr. M. P. Vinod, AOR  
Mr. Dileep Pillai, Adv.  
Mr. Ajay K. Jain, Adv.  
Mr. Atul Shankar Vinod, Adv.

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

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, stands disposed of  
accordingly.

(ASHWANI KUMAR)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)