

DC
Cr1.A.No. 866 OF 2000
ITEM NO.101

COURT NO.6

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.866 OF 2000@@
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MANOKARAN ... APPELLANT(S)

VERSUS

STATE OF TAMIL NADU ... RESPONDENT(S)

(With Office Report)

Date: 01/10/2002. This/These matter(s) were called on for hearing today.@@
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CORAM:

HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant(s) Mr. S.Aravindh, Adv.
Mr. Rakesh K. Sharma, Adv.

For Respondent (s) Mr. S. Balakrishnan, Sr. Adv.
Mrs. Revathy Raghavan, Adv.
Mr. Abhay Kumar, Adv.
Mr. R. Gopala Krishnan, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T....J.
.SP2

Heard learned counsel for the parties for
twenty minutes.
The appeal is dismissed in terms of the
signed order.

.SP1

(K.K. Chawla) (Shelly Sengupta)@@
AA
Court Master Court Master

[Signed order is placed on the file]

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.PL56

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.866 OF 2000@@
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MANOKARAN

APPELLANT

VERSUS

STATE OF TAMIL NADU

RESPONDENT

O R D E R@@
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.SP2

Mr. J.A. Syed Abdul Khader, Joint Secretary to Government of Tamil Nadu, Home Department, Chennai is present in terms of the earlier orders of this Court. Mr. Khader regrets that unfortunately a practice has grown in the State of Tamil Nadu to act in the fashion as it has been effected in the matter under consideration. Mr. Khader, however, assures this Court that in future the State Government would act strictly according to the requirements of the statute and not de hors. The question of continuity of there being any practice being followed henceforth would not arise and the same has been discarded by the State Government.

..2/-

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The appellant herein being the first accused in Sessions Case No.93/89 on the file of VI Additional Sessions Judge, Madras was tried along with 10 others. The fact situation of the matter in issue has been very succinctly dealt with by the High Court in paragraph 13 of the judgment.

.....L.....I.....T.....T.....T.....T...J.

.SP1

"13. According to the prosecution, the occurrence took place at about 12.30 p.m. and it was witnessed by PWs.1 to 4. PWs.1 to 4 have sustained injuries at the time of occurrence. It is the case of all these witnesses that at 12.15 p.m. when the dead body of tailor Munusamy was taken in a procession through N.M.K. Street and Pachaikkal Veerasamy Street, PW.5 asked all the shopkeepers to close their shops apprehending some trouble since some of the processionists were dancing. A1 appeared at the scene and questioned the processionists as to who they are to ask the shopkeepers to close their shops in his locality and cut the deceased with M.O.3, a knife. When the witnesses intervened, PW.1 was cut by A1 and PWs.2 to 4 were cut by A2. In respect of the incident which took place at 12.30 p.m., a complaint was also laid with PW.17, the Sub-Inspector of Police, at 12.45 p.m., i.e. within 15 minutes of the incident. Immediately, the injured were referred to the hospital where the Duty Doctor, PW.12 started examining the injured from 1.00 P.M."

It is on these set of facts the accused persons faced trial before the learned Sessions ..3/-

-3-

Judge. Four injured witnesses were examined as eye witnesses and the incident herein brought about unfortunate end of the deceased Nagaiah. The post mortem report found a stab injury on the left side of the root of the neck one cm. lateral to the lateral border of the left sterno-mastoid muscle 4 cm. x 1 cm. x 4 cm. clear cut margins. Blood clots were present dark Red in colour pointing downwards and medially. In the opinion of the doctor the deceased died of shock and haemorrhage due to the stab injuries sustained by him and the stab injuries were otherwise sufficient to cause death. The learned Sessions Judge thought it fit to pass an order of acquittal as regards A3 to A11 but convicted A1 and A2 whereas A2 was convicted under Section 324 of the Indian Penal Code, A1 was convicted under Section 302 of the Indian Penal Code with a punishment for life imprisonment. A2, however, has served the sentence and now stands released from the jail. This appeal thus by A1 before this Court.

The learned advocate appearing in support of the appeal rather strenuously contended that the High Court was in manifest error by reason of not considering exception IV to Section 300 of the ..4/-

.PL60

-4-

Indian Penal Code. It has been contended that as a matter of fact there was a sudden quarrel and fight and the accused was persuaded by the exigencies of the situation to take steps and while taking steps unfortunately the injury stood suffered by the victim.

Considering the nature of the injury, however, we are not in a position to render our concurrence with the submissions made in support of the appeal. The nature of the injury shows how cruelties and brutalities were meted out to injure a person on the root of the neck. The issue of aggression also came up during the course of submissions but we are unable to record our concurrence therewith as well by reason of the fact that the prosecutor cannot be termed to be aggressors in the contextual facts.

On the wake of the aforesaid, we do not find any merit in the appeal. The appeal, therefore, fails and is dismissed.

.SP1

.....J.
(U.C. Banerjee)

.....J.

(B.N. Agrawal)

New Delhi,
October 01, 2002.