

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(s). 1481 OF 2004

CHAMPA LAL

Appellant (s)

VERSUS

STATE OF RAJASTHAN

Respondent(s)

(With appln(s) for exemption from filing O.T.

Date: 03/03/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. Kumar Kartikay, Adv.
Ms. Neelu Sharma, Adv.
for Mr. Aruneshwar Gupta, Adv.

For Respondent(s)

Dr. Manish Singhvi, AAG
Mr. D.K. Devesh, Adv.
Mr. R. Gopalakrishnan, Adv.

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

The appeal is allowed in part in terms of the
signed order.

(Sukhbir Paul Kaur)
Court Master

(Renuka Sadana)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1481 OF 2004

CHAMPA LAL

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STATE OF RAJASTHAN

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O R D E R

The appellant and one Babu Lal were tried for the
offences punishable under Section 302 of the Indian Penal

Code (IPC) read with Sections 25 and 27 of the Arms Act and accordingly sentenced him with imprisonment for life and to pay a fine of Rs. 5,00/-, in default of payment of fine to undergo one year simple imprisonment and further term of simple imprisonment for three years and to pay a fine of Rs. 500/-, in default of payment of fine to undergo one month's simple imprisonment each for the offences punishable under Sections 25 and 27 of the Arms Act. However, Babu Lal was acquitted of the charge under Section 302 IPC but convicted for the offence punishable under Section 27 of the Arms Act. On appeal the High Court upon re-appreciation of the evidence confirmed the conviction and sentence awarded to the appellant while maintaining the conviction of Babu Lal for the offence under Section 27 of the Arms Act. Hence, this appeal.

-2-

The facts are tell-tale. The appellant and the deceased both are Dalit and they are resident of Khinwada within the local limits of Police Station Khinwada, District Bali, Rajasthan. The evidence suggests that there was some previous enmity between the appellant and deceased Chandu Lal. The dispute on the fateful day centers around the right to collect the left over food from the 'Yajmans' (Philanthropists) in the village. It appears the village has been divided between the appellant and his father Babu Ram and others on the one side and the deceased Chandu Lal on the other side on the otherwise apportioning the right to collect the food from 'Yajmans'. The bread and food so collected appears to be the source of livelihood of both appellant and the victim. Deceased Chandu Lal is alleged to have forcibly collected food from the 'Yajmans'. In a particular area though it was the turn of the appellant and his family to collect the food according to the prior arrangement. Deceased Chandu Lal even on the fateful day is alleged to have collected the left over food from the house of One

Acharya where a marriage was being celebrated.

This was the

point of dispute between the appellant and his family members

and the deceased Chandu Lal.

The dispute was over the right

to collect left over food from the house of a 'Yajman' where

there was a feast! Difficult to believe but that is the

reality. Still one may talk about the concern for Aam Admi

and claim that India is shining.

-3-

Be that as it may, on the fateful day in the evening

at about 6.00 p.m the deceased Chandu Lal is alleged to have

entered into heated exchange of words with the appellant

stating "you people always collect breads during the period

of turn of others.

Recently there was a marriage in the

house of Acharya when it was their turn, but you collected

the breads." The heated exchanges continued between both of

them and followed by the appellant taking his gun from his

house and climbed his room and aimed the gun towards the

deceased Chandu Lal challenging him that he would kill him

just then and there.

Guns are galore but no food!

Deceased

Chandu Lal challenged him to come out his house and face him.

The appellant got down from the terrace and came

at the

platform in front of his house.

The deceased challenged him

and asked him to shoot if he had the guts to do so.

The

heated exchanges continued between the appellant and the

deceased. On so being provoked the appellant fired at

deceased Chandu Lal resulting in spray of pellets on the body

of the deceased to which he fell down.

The pellets hit on

his left temple, left cheek, left shoulder, chest, left side

of stomach above the right eye and right shoulder.

The entire case of the prosecution rests upon the

PW-13 (Gheesu Lal) who is non other than the brother of the

deceased and PW-22 (Tarabai) mother of the deceased. Both of

them in one voice supported the case of the prosecution.

They have witnessed the incident from a close distance.

They

-4-

speaking about the altercation between the appellant and

deceased Chandu Lal each one of them challenging the other which has ultimately resulted in the death of the deceased.

The learned Sessions Judge upon appreciation of the evidence and the High Court upon reappraisal of the evidence found the appellant guilty of the charged offences. In this appeal a very limited submission is made by the learned counsel for the appellant contending that no case under Section 302 IPC is made against the appellant even if the prosecution story in its entirety is accepted. The learned counsel for the State, Dr. Manish Singhvi submits that the concurrent findings holding the appellant guilty of the charged offences is based on proper appreciation of evidence and no interference is called for by this Court in exercise of its jurisdiction under Article 136 of the Constitution. We have considered the submissions.

Admittedly there was an altercation and heated exchange of words between the appellant and the deceased. Both of them were challenging each other. Each one of them was provoking the other. The appellant on being provoked by the deceased went inside his house and took the gun and threatened the deceased that he would kill him if he does not stop the heated exchanges on which the deceased dared him to do so. In the process the appellant shot the deceased which resulted in the death of the deceased. The quarrel is attributable to each one of them provoking the other. In our

-5-

considered opinion the appellant committed culpable homicide not amounting to murder and his act by which the death is caused is done with the intention of causing death and therefore, punishable under Section 304 Part-I IPC. He is accordingly sentenced to undergo rigorous imprisonment for the period of 7 years. His conviction and sentence for the offence punishable under Sections 25 and 27 of the Arms Act is maintained. The sentences are directed to run concurrently. It is needless to direct that if the appellant

has served 7 years of rigorous imprisonment, he shall be released forthwith otherwise he has to undergo the remaining period of sentence.

The appeal is, accordingly, allowed in part.

.....J.
(B.SUDERSHAN REDDY)

.....J.
(SURINDER SINGH NIJJAR)

New Delhi,
March 03, 2011