

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.175 OF 2001

SHANKAR BALU PATIL

Appellant(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With office report)

Date : 19/09/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE D.K. JAIN

For Appellant (s) Mr. Sushil Karanjkar, Adv.
 Mr. G.B. Sathe, Adv.

For Respondent (s) Mr. Ravindra Keshavrao Adsure, Adv.

UPON hearing counsel the Court made the following
ORDER

The appeal is dismissed in terms of the signed order.

The bail bonds of the appellant, who is on bail, are cancelled and he is directed to be taken into custody forthwith to serve out the remaining period of sentence for which the matter must be reported to this Court within a period of one month from the date of the receipt of copy of this order by the trial court.

(N. Annapurna)
Court Master

(Om Prakash)
Court Master

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.175 OF 2001

Shankar Balu Patil

...Appellant

Versus

State of Maharashtra

...Respondent

ORDER

Heard the parties.

The appellant, along with accused Babu Santu Patil, was tried and by judgment rendered by the trial court, accused Babu Santu Patil was acquitted of the charge under Section 302 but was convicted under Section 323 of the Indian Penal Code (for short, the IPC) and sentenced to suffer imprisonment till the rising of Court and was directed to pay fine of Rs.100/-, in default to undergo further simple imprisonment for 15 days. He was further convicted under Section 452 IPC and sentenced to suffer imprisonment till rising of Court and to pay fine of Rs.200/-, in default to undergo simple imprisonment for 15 days. So far the appellant Shankar Balu Patil is concerned, he was convicted under Section 302 IPC and sentenced to undergo imprisonment for life and to pay fine of Rs.500/-, in default to undergo imprisonment for a period of two

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years. The appellant was further convicted under Section 452 IPC and sentenced to suffer simple imprisonment for a day and to pay fine of Rs.200/-, in default to undergo simple imprisonment for 15 days.

Against the order of acquittal of accused Babu Santu Patil charged under Section 302 IPC, no appeal was preferred by the State of Maharashtra. On appeal being preferred by both the accused persons, High Court upheld the conviction and sentence so far accused Babu Santu Patil is concerned. But in relation to the appellant, the conviction under Section 302 IPC has been converted into one under Section 304 Part I IPC and he has been sentenced to undergo rigorous imprisonment for a period of seven years. His conviction, however, under Section 452 has been maintained. Both the sentences have been ordered to run concurrently. So far accused Babu Santu Patil is concerned, he did not file any appeal before this Court. The present appeal by special leave has been filed by the appellant Shankar Balu Patil alone. At the time of grant of leave, this Court confined the appeal only for considering as to whether the appellant exceeded right of private defence of person.

In the present case, Dr. Nagumahanti Rao, PW-2, who

examined the appellant, stated that he found light swelling and echymosis upon the right shoulder joint of the

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appellant. The same Doctor conducted post-mortem examination on the dead body of the deceased Ishwara Dattu Patil and found the following injuries on the person:

1. Incised and cutting wound of 5" x 1 ½" x ½" on the chest, oblique in nature, over 4th rib to 7th rib. There was gaping in the wound and bleeding was present.
2. An incised and cutting of 1" x ½" x 1/4" across the right index finger, middle and posterior aspect, the finger bone was cut with bleeding present.

The Doctor opined that there was cut of fourth to seventh rib piercing the left pleura which was also cut. Apart from that, he found that anterior lobe of the left lung was cut 1/2" deep and internal bleeding was present. The Doctor clearly stated in his evidence that injury No.1 on the chest was sufficient to cause death in the ordinary course of nature. The nature of the injury upon the accused and those upon the deceased clearly go to show that the appellant exceeded the right of private defence. In this view of the matter, we are of the view that the High Court was quite justified in convicting the appellant under Section 304 Part-I and taking a lenient view of the matter awarded sentence of seven years rigorous imprisonment.

For the foregoing reasons, we do not find any ground to interfere with the impugned order. The appeal, accordingly, fails and the same is dismissed.

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Bail bonds of the appellant, who is on bail, are cancelled and he is directed to be taken into custody forthwith to serve out the remaining period of sentence for which the matter must be reported to this Court within a period of one month from the date of the receipt of copy of this order by the trial court.

.....J.
(B.N. AGRAWAL)

.....J.
(S.H. KAPADIA)

.....J.
(D.K. JAIN)

New Delhi,
September 19, 2007.