

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 457-458 OF 2001

RAJESWARAI KUMARI

Appellant (s)

VERSUS

STATE OF RAJASTHAN AND ANR.

Respondent(s)

(With appln(s) for substituted service and office report)

WITH CRL.APPEAL NO. 459 of 2001

(With appln. for exemption from filing OT of the additional documents)

CRL. APPEAL NO. 460 of 2001

(With appln. for exemption from filing c/c of the impugned judgment)

Date: 10/04/2008 These Appeals were called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE MR. JUSTICE AFTAB ALAM

For Appellant(s)

Mr. Vishwajit Singh,Adv.

Mr. Naveen Kumar Singh,Adv.

Mr. Aruneshwar Gupta,Adv.

For Respondent(s)

Mr. Naveen Kumar Singh,Adv.

Mr. Aruneshwar Gupta,Adv.

Mr. V.J. Francis,Adv.

UPON hearing counsel the Court made the following
ORDER

The appeals are dismissed in terms of the signed order.

(Neena Verma)

Court Master

(Sneh Bala Mehra)

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.457-458 OF 2001

Rajeswarai Kumari

...Appellant

Versus

State of Rajasthan and Anr.

...Respondents

With
Criminal Appeal Nos.459/2001 & 460/2001

ORDER

These four appeals are inter-connected.

The two appeals, i.e. Criminal Appeal Nos.459/2001 and 460/2001 are by the State of Rajasthan while Criminal Appeal Nos.457-458/2001 are by the informant.

Before the High Court of Rajasthan, Jodhpur Bench, there were two appeals, the judgment in which forms the subject matter of challenge in the present appeals. D.B. CrI. Appeal No.2/1982 was filed by the respondent - Guman Singh while D.B. CrI. Appeal No.263/1992 was filed by the State of Rajasthan. The learned Sessions Judge, Jodhpur in Sessions Case No. 73/1981 held the respondent guilty of offence punishable under Section 304 (Part-II) Indian Penal Code, 1860 (in short 'the IPC') and sentenced him to rigorous imprisonment for ten years and to pay a fine of Rs.250/- with default stipulation. It is to be noted that there were four accused persons who faced trial. The Trial Judge directed acquittal of the three co-accused persons. The High Court, by the impugned judgment, held that in fact, the respondent had caused the injuries, which ultimately led to the death of the deceased. But it was held that the injuries were inflicted while exercising the right of private defence.

As noted above, two appeals have been filed by the State of Rajasthan, while two appeals have been filed by the informant. It would be relevant to note that in the State's appeal before the High Court, the acquittal of the three accused persons was also challenged. They were also parties in the appeals filed by the State before this Court.

However, as noted by order dated 25.01.2001, the acquitted accused persons have, in the meantime, expired, and therefore, the appeals were treated to have abated so far as they are concerned.

Learned counsel for the appellant-State (In Criminal Appeal Nos.459 & 460 of 2001) submitted that in the background scenario, as

projected by the prosecution, it is crystal clear that even if it is conceded for the sake of arguments that the accused persons were exercising their right of private defence, they have exceeded the same and, therefore, were not protected in law.

Learned counsel for the accused-respondents, (In Criminal Appeal Nos.459-460/2001) on the other hand, submitted that the High Court has noted the relevant aspects to come to the conclusion that the injuries were inflicted on the deceased while they exercised the right of private defence.

On consideration of the conclusions arrived at by the High Court with reference to the evidence on record, we find the appeals to be without merit and deserve dismissal, which we direct.

.....J.

(Dr. ARIJIT PASAYAT)

.....J.

(P. SATHASIVAM)

.....J.

(AFTAB ALAM)

New Delhi
April 10, 2008.