A

BRIJ LAL

v.

STATE OF RAJASTHAN

(Criminal Appeal No. 991 of 2010)

B

AUGUST 17, 2016

[JAGDISH SINGH KHEHAR AND ARUN MISHRA, JJ.]

Penal Code, 1860: s.302 – Murder – Prosecution case was that appellant and PW-15 were both employed in the same department – Appellant used to hurl abuses at PW-15 under the influence of liquor – Due to this, PW-15 shifted and took house of PW-1 on rent – On the fateful day, appellant and co-accused armed with pistols came to the new residence of PW-15 and started hurling abuses at PW-15 and threatened to kill him – PW-1 asked him to go away – Hearing commotion, the neighbours and co-villagers requested the appellant and co-accused to go away – Thereafter, appellant fired at the gathering – Two persons received bullet injuries from the shots fired by him – One died on the spot and other received serious injuries and died the next day – Co-accused also fired from his gun which hit a woman who died on the spot and two others including a 5 year old child received injuries – Trial court accepted plea of self defence raised by appellant and ordered acquittal – However, High Court held him guilty u/s.302 – On appeal, held: Evidence produced by the prosecution affirmed that the crowd which had gathered at the place of occurrence comprised of men, women and children who were unarmed – It cannot be overlooked, that one of the deceased was a woman, and one of the injured was 5 years old – Thus, no material evidence was produced by appellant to demonstrate that gunshots fired by him was in self-defence – Recovery of the weapon was also made at the instance of the appellant – The fact, that there was a distance of about 17 to 18 feet between the appellant and the villagers, shows that there was no real threat to him when he fired shots at the unarmed gathering – Prosecution witnesses, duly identified the accused-appellant – The statements of the prosecution witnesses clearly led to the inference, that the appellant was guilty of having committed the offence u/s.302 – Appellant-accused not entitled to benefit of doubt.

C D E F G H

Dismissing the appeal, the Court A

HELD: 1. There is evidence on the record of the case to authenticate, that all the villagers were only persuading the accused-appellant his co-accused not to insist on carrying out their threat, to murder PW-15. The testimony of the prosecution witnesses also demonstrates, that there was substantial distance B between the villagers, and the place where the accused were standing. Not only PW-1, but also PW- 15, expressly deposed that none of the neighbours and co-villagers, was armed. Moreover, the reiteration by the witnesses, that the crowd comprised of men, women and children, by itself is sufficient, to C infer that the neighbours and co-villagers were not aiming at causing any harm or injury to the accused-appellant or the co-accused. It cannot be overlooked, that one of the deceased was a woman, and one of the injured was a child of 5 years. Thus, no material evidence was produced by the appellant (to demonstrate that gunshots fired by the accused and the co-accused D were in self-defence. [Para 15] [193-C-F]

2. It was not disputed by the accused-appellant that three fatal (besides other) injuries, were caused by the accused-appellant and his co-accused. Therefore, the onus lay on the appellant to demonstrate the reason and the justification for their E action. The evidence produced by the prosecution demonstrated that the accused had fired gunshots indiscriminately, on being angered by the gathering, which was trying to persuade them from carrying out their singular objective – to cause harm to the person of PW-15. Having accepted, that they had actually fired F at the neighbours and the villagers, who had gathered at the place of occurrence, it does not lie in their mouth to raise such a plea. [Para 18] [195-G-H; 196-A]

3. The next contention for the appellant was, that the recovery of the weapon, namely, the gun, with which the accused-G appellant shot at the crowd, was not proved to have been recovered from the appellant. Such a plea could have been raised only if the appellant had been in denial, and had adopted the stance, that he had not fired at the crowd at the time of occurrence. Since that is not his plea, the instant submission is wholly misconceived. [Para 19] [196-B-D]

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4. The next contention for the appellant was, that the co-accused who was separately tried, was acquitted and that the very same witnesses, who were relied upon by the prosecution in the separate trial of the appellant, had deposed during the course of the trial conducted against the co-accused and as such, the acquittal of co-accused and the conviction of the accused-appellant made no sense whatsoever. The entire prosecution story revolved around the fact, that the accused-appellant and the co-accused were out and out to harm PW-15, on account of their previous discord. In the judgment whereby the co-accused was acquitted, most of the prosecution witnesses had resiled, and did not identify the co-accused as the person involved in the occurrence. The position in the present case is just the reverse. All the relevant prosecution witnesses, duly identified the accused-appellant. It is therefore not possible to accept, that the accused-appellant deserves to be acquitted, because of the acquittal of co-accused in the separate trial conducted against him. [Para 20] [196-F-H; 197-C]

5. The next contention for the appellant was, that as a consequence of the aggressive attitude of the neighbours and the co-villagers, who had gathered at the place of occurrence, the accused-appellant and the co-accused were pushed back to a distance of about 200 feet from the house of PW-1. The prosecution has clearly demonstrated through the testimony recorded on oath, that none of the persons gathered at the place of occurrence was armed in any manner. It is also apparent, that the crowd gathered at the place of occurrence was comprised of men, women and children. The fact, that there was a distance of about 17 to 18 feet between the accused-appellant and the villagers, shows that there was no real threat to him when he opened firing at the unarmed gathering including women and children. It was only because of their desire to retaliate against the crowd, consequent upon the crowd having gathered to protect PW-15, cannot be a satisfactory reason for the appellant to fire gunshots indiscriminately. [Para 21] [197-D-H; 198-A-B]

6. The last contention for the appellant was, that PW-15 was also a part of the crowd, which the accused-appellant and the co-accused were facing, and as such, he ought to have fired at

him, rather than at the other members of the crowd. The accused-appellant did not even make the above suggestion to the prosecution witnesses, when they were being cross-examined on his behalf. Moreover, the actual suggestion given was, that the accused had come to a general merchant shop to buy "biris" (traditional cigarettes), and that, they never come to the place of occurrence, or that, they had any intention to harm PW-15. There is no merit in the instant contention, and the same is also hereby rejected. The statements of the two prosecution witnesses, namely, PW-1 and PW-15, along with the testimony of the other witnesses, would clearly and unequivocally lead to the inference, that the accused-appellant was guilty of having committed the offence under Section 302 of the IPC. There is absolutely no question of extending the benefit of any doubt to the accused-appellant in the present case. [Paras 22, 24] [198-C-E; 200-A-C]

Buta Singh v. State of Punjab **(1991) 2 SCC 612 – held inapplicable**

Bhagwan Swaroop v. State of Madhya Pradesh **(1992) 2 SCC 406:1992 (1) SCR 466;** *Sunil Kumar Sambhudayal Gupta v. State of Maharashtra* **(2010) 13 SCC 657:2010 (15) SCR 452 – referred to.**

Case Law Reference

1992 (1) SCR 466	**referred to**	**Para 16**
(1991) 2 SCC 612	**held inapplicable**	**Para 16**
2010 (15) SCR 452	**referred to**	**Para 23**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 991 of 2010.

From the Judgment and Order dated 17.11.2009 of the High Court of Rajasthan at Jodhpur, in D. B. Criminal Appeal No. 227 of 1985.

Huzefa Ahmadi, Sr. Adv., B. P. Sarangi, Tejasvi Kumar, Vinod Kumar K., Ms. Shahrukh Alam, Ambar Qamaruddin (For Mrs. M. Qamaruddin), Advs. for the Appellant.

Puneet Parihar (For Milind Kumar), Adv. for the Respondent.

A The Judgment of the Court was delivered by

JAGDISH SINGH KHEHAR, J. 1. According to the allegations levelled in the complaint, the appellant–Brij Lal and Mohan Lal - PW-15 were both employed in the Irrigation Department of the State Government. They were both holding the posts of Gauge Reader. They B also resided in government quarters at Suleman-ki-Head, close to one another. The appellant–Brij Lal allegedly used to hurl abuses at Mohan Lal - PW-15 under the influence of liquor. Some others, including Kashi Ram, co-accused, used to side with the appellant – Brij Lal, in his misbehaviour with Mohan Lal – PW-15. In order to settle the dispute amicably Mohan Lal – PW-15 called a "panchayat" (council). The C endeavour of Mohan Lal – PW-15, through the panchayat, proved unsuccessful. Eventually, he addressed a communication dated 18.8.1983, to the Assistant Engineer of the Irrigation Department, highlighting the inimical attitude of the appellant–Brij Lal. Since the said complaint also did not lead to any fruitful result, Mohan Lal – PW-15 quit his government D accommodation, and took up rental accommodation in the house of Mohan Ram – PW-1.

2. The incident which has given rise to the present appeal, occurred on 30.9.1983 at around 9 p.m., at the house of Mohan Ram – PW-1, i.e., the premises to which Mohan Lal – PW-15 had shifted, to keep himself E away from the appellant–Brij Lal. At the time of occurrence, Mohan Lal – PW-15 was present in the said premises, along with his wife and children. It was alleged, that the appellant–Brij Lal and the co-accused – Kashi Ram hurled abuses at Mohan Ram - PW-1, who was sitting outside, in front of his house. The appellant and the co-accused asked Mohan Ram – PW-1, to call out Mohan Lal – PW-15, as they wanted to kill him. F It was the assertion of Mohan Ram – PW-1, who eventually lodged the complaint, that he had requested the appellant–Brij Lal and the co-accused – Kashi Ram, not to create any trouble at his house. He asked them to fulfill their intentions at some other place. Unmindful of the advice tendered by Mohan Ram – PW-1, the appellant and the co-accused G started hurling abuses at Mohan Ram – PW-1. At that juncture, Mohan Ram – PW-1 realized, that the accused and the co-accused were in possession of pistols. Mohan Lal – PW-15, having heard the appellant and the co-accused hurling abuses, and also, threatening to kill him, scaled the boundary wall of the premises, and hid in the flour mill of Milkha Singh, located in close vicinity of the house of Mohan Ram–PW-1.

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3. Hearing the altercation and the phone-calls made by Mohan Ram – PW-1 and Mohan Lal – PW-15, neighbours and co-villagers, came to the place of occurrence. They too requested the appellant – Brij Lal, and the co-accused – Kashi Ram, to go away. Instead of leaving, the accused-appellant, as well as, the co-accused openly proclaimed, that they would not leave without killing Mohan Lal – PW-15. Under the pressure of the neighbours and the co-villagers, they moved towards the front of the house of Sultan Bhat, located in front of the house of Mohan Ram–PW-1. At that juncture, the neighbours and the co-villagers went towards the spot at which the accused-appellant – Brij Lal and the co-accused – Kashi Ram had retreated, and again requested them to desist from their intentions. According to the assertions made in the complaint, at the instance of the co-accused – Kashi Ram, the appellant – Brij Lal fired at the gathering. Om Prakash and Sultan Bhat received bullet injuries from the shots fired by Brij Lal. Om Prakash died on the spot. Sultan Bhat was rendered unconscious. He was removed to hospital, where he died on the following day, i.e., on 1.10.1983. Kashi Ram also fired from the gun in his possession. It hit Mst. Munni Devi (a woman), who also died on the spot. In the firing under reference, Labh Singh and Sheria (a 5 year old boy) were also injured. The report of the above incident was lodged by Mohan Ram – PW-1, on 1.10.1983 at 12.05 a.m.

4. It is also relevant to mention, that the appellant – Brij Lal and the co-accused – Kashi Ram got themselves admitted to a hospital. As soon as they heard about the death of Sultan Bhat, they ran away from the hospital. The appellant – Brij Lal was however, arrested on 10.10.1983. Based on the disclosure statement made by him, a 12 bore pistol and an empty cartridge were recovered. The co-accused – Kashi Ram was successful in evading his arrest. After investigation, the appellant – Brij Lal was charged under Sections 302, 307 and 324 read with Section 34 of the Indian Penal Code (hereinafter referred to as, the IPC) and Sections 25 and 27 of the Indian Arms Act, by the Judicial Magistrate No.1, Sri Ganganagar. The learned Magistrate committed the case to the Court of Session, which framed charges against the appellant – Brij Lal, under the provisions referred to hereinabove.

5. The accused appellant – Brij Lal, pleaded innocence. He sought recourse to the plea of private defence, under the second exception under Section 300 of the IPC. Section 300, IPC is reproduced below:

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"300. Murder.—Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

Secondly. —If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

B

Thirdly. —If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be in-flicted is sufficient in the ordinary course of nature to cause death, or—

C

Fourthly. —If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations

D

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

E

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been suffi-cient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

F

G

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

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Exception 1.— xxx xxx xxx A

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of B doing more harm than is necessary for the purpose of such defence.

Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. C A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.— xxx xxx xxx

D

Exception 4.— xxx xxx xxx

Exception 5.— xxx xxx xxx"

After the statements of the prosecution witnesses were recorded, and that of the appellant was recorded under Section 313 of the Code of Criminal Procedure, even though an opportunity was afforded to the E appellant, to lead evidence in his defence, he chose not to produce any witness on his behalf.

6. Vide his judgment dated 22.1.1985, the Sessions Judge, Sri Ganganagar, acquitted the appellant-Brij Lal by accepting the plea of self-defence raised by him by invoking the second exception under F Section 300, IPC.

7. Dissatisfied with the above judgment dated 22.1.1985, the State of Rajasthan preferred D.B. Criminal Appeal No.227 of 1985, to assail the order dated 22.1.1985 passed by the Sessions Judge, Sri Ganganagar. The High Court rendered the impugned judgment on 17.11.2009, whereby G the appeal preferred by the State of Rajasthan was accepted. The judgment rendered by the Sessions Judge, Sri Ganganagar dated 22.1.1985, acquitting the appellant-Brij Lal, was set aside. The appellant-Brij Lal was found guilty of having committed the offence punishable under Section 302 of the IPC. Keeping in mind the fact, that the

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A occurrence had taken place in 1983, the High Court awarded the sentence of life imprisonment to the appellant-Brij Lal. It also imposed a fine of Rs.1,000/-, and in default thereof, awarded one year's rigorous imprisonment, to the appellant.

8. The appellant has approached this Court, to assail the impugned B judgment, rendered by the High Court dated 17.11.2009. During the course of hearing, learned counsel for the appellant, summarized the contentions advanced on behalf of the appellant, as under:

Firstly, it was contended, that the factum that the appellant-Brij Lal had also suffered injuries, was sufficient to establish, that their retaliation by C firing gunshots at the gathering, was a matter of self-defence, and nothing else. Secondly, it was urged, that the target of the appellant-Brij Lal, as per the prosecution story, was Mohan Lal - PW-15. And as such, there was no question of their having intentionally fired shots at the neighbours and co-villagers and therefore, could not have been held guilty of the offence under Section 302 of the IPC. Thirdly, it was submitted, that the D recovery of the weapon, namely, the gun with which the appellant–Brij Lal, allegedly shot at the neighbours and co-villagers, resulting in the death of Om Prakash, Sultan Bhat and Munni Devi, was not proved to have been recovered from the appellant. And as such, in the absence of proof of recovery of the weapon used in the occurrence from the appellant, E there was no justification, whatsoever, for the High Court to have found the appellant guilty of the offence under Section 302 of the IPC. Fourthly, it was submitted, that the co-accused – Kashi Ram, who was tried separately, was prosecuted in the same manner as the appellant. It was submitted, that the same witnesses as were produced by the prosecution against the appellant-Brij Lal, were also produced by the prosecution, F against the co-accused – Kashi Ram. On the culmination of the trial against Kashi Ram, he was found innocent, and was acquitted. It was submitted, that the State of Rajasthan, chose not to prefer any appeal against the order of acquittal of the co-accused – Kashi Ram. According to learned counsel, the prosecution cannot succeed in one case, and fail G in the other, when the witnesses produced against both accused are the same. Fifthly, it was contended, that the evidence produced by the prosecution reveals, that the incident had occurred more than 200 feet away from the house of Mohan Ram – PW-1. Just the above fact, according to learned counsel, is sufficient to demonstrate, that the mob which had assembled at the place of occurrence, was acting in an

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intimidating manner, resulting in the accused-appellant – Brij Lal and the co-accused – Kashi Ram, retreating away from the house of Mohan Ram – PW-1 towards the house of Sultan Bhat. It is therefore apparent, that the gunshots fired by the appellant-Brij Lal and the co-accused – Kashi Ram, were in their self-defence, and nothing more. Lastly, it was the contention of learned counsel for the appellant, that Mohan Lal – PW-15, in his deposition, clearly and unequivocally acknowledged, that at the time of occurrence when the appellant and the co-accused fired the shots, he was at a distance of 20 feet from the appellant–Brij Lal. It was the contention of learned counsel, that if the prosecution story is to be believed, the appellant should have fired at Mohan Lal – PW-15, and not at the persons gathered at the place of occurrence, as alleged by the prosecution.

9. During the course of hearing, learned counsel for the rival parties, in order to project their respective claims, relied on the statements of only two witnesses, i.e., Mohan Ram – PW-1 and Mohan Lal – PW-15. We are of the view, that in our determination of the claims, projected on either side, it is imperative to closely examine the testimony of these two witnesses. We shall endeavour to do so, hereunder:

10. Mohan Ram – PW-1:

(i) In his opening statement, Mohan Ram acknowledged, that he knew the accused-appellant – Brij Lal and Mohan Lal – PW-15, from before. He affirmed, that just like them, he too was employed in the Irrigation Department of the State Government. While Brij Lal and Mohan Lal were employed in the department as Gauge Readers, he himself was working as a Beldar. All of them were posted at the Head of Suleman. He stated, that Mohan Lal and Brij Lal were allotted government quarters close to one another, at Suleman-ki-Head. The fact, that they were quarreling among themselves for some time prior to the incident, was also affirmed. It was pointed out, that while Mohan Lal was living in his government quarter along with his family, Brij Lal was residing by himself in his separate quarter. He affirmed, that the accused-appellant – Brij Lal used to drink liquor at night, and create a racket "every time", thereafter. He confirmed, that co-accused – Kashi Ram was Brijlal's drinking partner, and that, Kashi Ram also used to associate along with Brij Lal, in the brawl. He testified, that Mohan Lal – PW-15, used to object to their behaviour, and therefore, the accused-appellant – Brij Lal and the co-accused – Kashi Ram, were inimical to Mohan Lal – PW-15.

A He confirmed, that Mohan Lal – PW-15 had complained to him and others about their behaviour on several occasions, and that, he had also spoken to the accused-appellant – Brij Lal, to persuade him to desist from such activities. He pointed out, that Brij Lal was adamant, and had refused to stop. He also stated, that Mohan Lal – PW-15 had taken him to make a representation against Brij Lal, to the Overseer of the Irrigation B Department. He (Mohan Lal – PW-15) had given up living in his allotted quarter, and had moved to his (Mohan Ram – PW-1's) house along with his family, as his tenants. He confirmed, that the said shifting had taken place about fifteen days prior to the occurrence.

C (ii) With reference to the occurrence, it was stated, that it had taken place between 8.30 p.m. and 9 p.m. He testified, that he was sitting in front of his house on a cot, and that, Mohan Lal – PW-15, and his wife and children, were inside the house. He deposed, that the accused-appellant – Brij Lal and the co-accused – Kashi Ram, had come to his house with pistols in their hands. The accused-appellant – Brij Lal, it D was pointed out, asked him to call Mohan Lal – PW-15 outside, as they had come to kill him. He stated, that he pleaded with the accused-appellant, as also, the co-accused, not to do any such thing, at his residence.

(iii) He confirmed, that he had seen Mohan Lal – PW-15 scale the wall E of his house, and cross over to the house of his neighbour Badri Ram, and then proceeded to the flour mill of Milkha Singh. He stated, that he had shouted out for help, whereafter, his neighbours and co-villagers, hearing his clamour, had reached the place of occurrence. He deposed, that all the persons gathered at the place of occurrence, had requested the accused-appellant – Brij Lal, and the co-accused – Kashi Ram, to F leave the place, but Brij Lal and Kashi Ram were adamant in their resolve. They had responded by stating, that they would not go anywhere, as they had come to kill Mohan Lal – PW-15. He testified, that at that juncture the accused-appellant – Brij Lal, and the co-accused – Kashi Ram, moved away from his house and stood in front of the house of G Sultan Bhat, but still continued to hurl abuses. He pointed out, that all the neighbours and co-villagers were at a distance of about 20 feet from Brij Lal and Kashi Ram, and were persuading them to stop hurling abuses. But, they were insistent. Mohan Ram – PW-1 further deposed, that co-accused – Kashi Ram, at that juncture, exhorted Brij Lal to shoot at the crowd, as everyone was siding with Mohan Lal – PW-15. He deposed,

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that Brij Lal, on being so implored, fired at the gathering. He affirmed, that Om Prakash and Sultan Bhat received firearm injuries. It was his assertion, that in the meanwhile, the co-accused – Kashi Ram also fired from his gun, which hit Munni Devi, Labh Singh Mistry and Sheria. He deposed, that Munni Devi and Om Prakash died at the spot, whereas Sultan Bhat became unconscious.

(iv) He also confirmed, that he had lodged a report of the incident, at Police Station Chunawar, around mid-night. In his cross-examination Mohan Ram – PW-1 asserted, that the persons, who had gathered at the place of occurrence, comprised of men, women and children. He denied, that those persons who had gathered there, intended to apprehend the accused-appellant – Brij Lal or the co-accused – Kashi Ram. He confirmed, that none amongst the crowd, was armed with any lathis or sticks. He denied the suggestion, that Brij Lal and Kashi Ram were attacked by the villagers, with lathis. He deposed, that neither Brij Lal nor Kashi Ram had received any injuries during the occurrence. He also denied the suggestion, that the persons gathered at the place of occurrence, had chased the accused-appellant, and the co-accused. He also denied the suggestion, that Brij Lal and Kashi Ram had come to the general merchant shop to buy "biris" (traditional cigarettes), and had never come to his residence, to beat or harm Mohan Lal – PW-15.

(v) The above deposition of Mohan Ram – PW-1, fully affirmed the prosecution version of the occurrence.

11. Mohan Lal – PW-15:

(i) Mohan Lal deposed, that he was employed in the Irrigation Department, of the Government of Rajasthan, and was posted at Head of Suleman, as Gauge Reader. He confirmed, that he was living in a government quarter allotted to him, along with his wife and three children, at Suleman-ki-Head. He acknowledged, that the government quarter of the accused-appellant – Brij Lal, was nearby his own quarter. He asserted, that the accused-appellant – Brij Lal, used to abuse him after drinking liquor, and that, Kashi Ram and his brother-in-law, used to sometimes accompany the accused-appellant – Brij Lal. He stated, that he had asked the accused to desist from using such language, because he was a family man. He deposed, that he had called a "panchayat" (council), to resolve the issue between himself and the accused-appellant – Brij Lal. The "panchayat" was attended by co-employees of the Irrigation Department. He

A confirmed, that Brij Lal, on being called, had attended the panchayat. He deposed, that even at the panchayat, the accused-appellant – Brij Lal had reiterated, that he would do as he wished, and they (the members of the panchayat) may do what they could. He also deposed, that after panchayat, he had given an application to the Overseer (Exhibit P-12) of B his department, complaining about the conduct of the accused-appellant – Brij Lal. He stated that despite the complaint, the behaviour of accused-appellant – Brij Lal did not improve. He urged, that to avoid the appellant, he had surrendered the government accommodation allotted to him at Suleman-ki-Head and had moved to a rented accommodation, in the house of Mohan Ram – PW-1. He deposed, that the occurrence had C taken place within 10/15 days of his moving to the house of Mohan Ram – PW-1. The occurrence is stated to have taken place between 8 p.m. and 9 p.m.. He asserted, that Mohan Ram – PW-1, was sitting outside the gate of his house, whilst he himself, his wife and children, were in the house. He deposed, that the accused-appellant – Brij Lal D and the co-accused – Kashi Ram were calling him outside the house. He confirmed, that they were holding pistols in their hands. On such exhortation, Mohan Ram – PW-1 had told the accused-appellant and the co-accused, that he would not allow them to kill Mohan Lal – PW-15 at his residence, but they did not listen to him, and continued to hurl filthy abuses.

E (ii) Mohan Lal asserted, that he jumped over the wall of the house of Mohan Ram – PW-1, and from the side of the house of Badri Ram, he entered the flour mill of Milkha Singh. He asserted, that the neighbours and co-villagers hearing the shouts of Mohan Ram – PW-1, ran to the place of occurrence. At that juncture, the accused-appellant – Brij Lal F and the co-accused – Kashi Ram, had moved towards the house of Sultan Bhat. He asserted, that the crowd comprised of men, women and children. He also deposed, that the villagers requested Brij Lal and Kashi Ram to go away, but they were bent on carrying out their objective. He stated, that Brij Lal and Kashi Ram fired shots from their pistols, and the G shots fired by the accused-appellant – Brij Lal hit Om Prakash and Sultan Bhat, whereas, the shots fired by the co-accused – Kashi Ram hit Muni Devi, Labh Singh and Sheria Ram. He confirmed, that Munni Devi and Om Prakash died at the spot. He also stated, that the condition of Sultan became serious, and therefore, the villagers had taken him to hospital. He asserted, that the accused-appellant – Brij Lal and the co-H accused – Kashi Ram, went away from the spot after the incident.

(iii) In his cross-examination Mohan Lal – PW-15 stated, that the conduct of accused-appellant – Brij Lal had worsened, about six months prior to the occurrence. He stated, that his only difference with the accused-appellant – Brij Lal was, that he used to abuse him. He denied the suggestion, that the accused-appellant – Brij Lal had ever teased his wife. He reiterated, that he had lodged a complaint against the accused-appellant – Brij Lal, with his senior officers. He stated, that the first time, accused-appellant – Brij Lal threatened to kill him, was after he had summoned the "panchayat" (council), to resolve their dispute. Mohan Lal – PW-15 acknowledged, that he had never made such a complaint to the police. He also clarified, that the accused-appellant – Brij Lal and the co-accused – Kashi Ram, had been exhorting Mohan Ram – PW-1, to call him (Mohan Lal – PW-15) outside the house. He stated, that when accused-appellant – Brij Lal and the co-accused – Kashi Ram were speaking to Mohan Ram – PW-1, they were visible to him from within the house. He stated, that he became scared, and therefore, ran away from the house. He deposed, that he had run away, because the accused-appellant – Brij Lal was saying, that they were going to kill him. He deposed, that he had run away by jumping into the house of Badri Ram, and therefrom, went to the flour mill of Milkha Singh. He testified, that Milkha Singh closed the doors, after he had entered his mill, when he informed Milkha Singh, that the accused had come to kill him. While in the flour mill of Milkha Singh, Mohan Lal – PW-15 confirmed, that he could hear the sound of people coming to the house of Mohan Ram – PW-1. He also confirmed hearing the shouts of Mohan Ram – PW-1. He stated, that he became encouraged and lost his fear, when he heard the voices of the co-villagers, whereupon, he himself (Mohan Lal – PW-15) and Milkha Singh came out of the flour mill. On coming out, he had seen the accused-appellant – Brij Lal and the co-accused – Kashi Ram standing in front of the house of Sultan Bhat at a distance of "...about 30-40-45 Ft...", from the flour mill. He stated, that he was standing near Om Prakash, when Om Prakash was shot. And that, Sultan, Munni Devi and Sheria Ram were standing about 5 feet away from their side. He confirmed, that he was not hurt by any pellet. He deposed, that the first shot was fired by the accused-appellant – Brij Lal, and the next shot was fired by the co-accused – Kashi Ram. He affirmed, that the accused-appellant – Brij Lal had no quarrel/enmity with the deceased Om Prakash and Munni Devi. He stated, that Om Prakash, Munni Devi and others had only come to the place of

A occurrence, to save him. In his cross-examination, Mohan Lal – PW-15 deposed that, while the accused-appellant – Brij Lal and the co-accused – Kashi Ram were standing in front of the house of Sultan Bhat, the deceased and the injured were standing at a distance of about 20-25 feet, from the house of Sultan Bhat. The distance between the accused-appellant – Brij Lal and the villagers was about 17 to 18 feet, whereas, B the distance between the co-accused – Kashi Ram and Munni Devi was about 8 to 10 feet. He deposed, that it was not possible for anyone to catch the accused-appellant – Brij Lal and the co-accused – Kashi Ram, because "...all were empty handed...". During his cross-examination Mohan Lal – PW-15 deposed, that the crowd comprised of C 20 to 25 men, 10 to 15 women and some children, when the firing had taken place. He also asserted, that the accused-appellant – Brij Lal, asked Mohan Ram – PW-1, to send forward Mohan Lal – PW-15 (i.e., himself), because they needed to kill him. In response to his denial, Mohan Lal – PW-15 stated, that the accused-appellant – Brij Lal shouted, D that the accused would kill each one of those who were helping Mohan Lal – PW-15. Mohan Lal - PW-15 reiterated, that none of the villagers was armed with any weapon. The suggestion, that the villagers were chasing the accused and the co-accused, was denied. The suggestion, that the persons gathered at the place of occurrence had lathis on their hands, and that, they had inflicted injuries on accused-appellant – Brij E Lal and the co-accused – Kashi Ram with lathis, was also denied.

(iv) The above deposition of Mohan Lal – PW-15, fully affirmed the prosecution version of the occurrence.

12. We shall now deal with the individual pleas canvassed at the hands of learned counsel for the appellant.

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13. The first contention advanced at the hands of learned counsel for the appellant was, that the appellant had fired gunshots at the mob of villagers only as a matter of self-defence, when the accused-appellant and the co-accused, had been attacked. In this behalf, it would be relevant to mention, that whilst it is open to an accused to raise a defence in the G nature suggested by learned counsel, there is an obvious pitfall where an accused chooses to do so, in the sense that by raising such a plea, the accused acknowledges the occurrence itself. There is yet another predicament which he is liable to encounter, when raising such a defence. The same emerges from Section 96 of the Indian Evidence Act, which H is extracted below:

"96. Evidence as to application of language which can apply to one only of several persons.— When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to."

In this behalf, reference may also be made to the decision in Rizan v. State of Chhatisgarh, AIR 2003 SC 976, wherein this Court held as under:

"13. Then comes plea relating to alleged exercise of right of private defence. Section 96, IPC provides that nothing is an offence which is done in the exercise of the right of private defence. The Section does not define the expression 'right of private defence'. It merely indicates that nothing is an offence which is done in the exercise of such right. Whether in a particular set of circumstances, a person acted in the exercise of the right of private defence is a question of fact to be determined on the facts and circumstances of each case. No test in the abstract for determining such a question can be laid down. In determining this question of fact, the Court must consider all the surrounding circumstances. It is not necessary for the accused to plead in so many words that he acted in self-defence. If the circumstances show that the right of private defence was legitimately exercised, it is open to the Court to consider such a plea. In a given case the Court can consider it even if the accused has not taken it. If the same is available to be considered from the material on record. Under Section 105 of the Indian Evidence Act, 1872, the burden of proof is on the accused, who sets of the plea of self-defence, and, in the absence of proof, it is not possible for the Court to presume the truth of the plea of self-defence. The Court shall presume the absence of such circumstances. It is for the accused to place necessary material on record either by himself adducing positive evidence or by eliciting necessary facts from the witnesses examined for the prosecution. An accused taking the plea of the right of private defence is not required to call evidence; he can establish his plea by reference to circumstances transpiring from the prosecution evidence itself. The question in such a case would be a question of assessing the true effect of the prosecution evidence, and not a

A question of the accused discharging any burden. Where the right of private defence is pleaded, the defence must be a reasonable and probable version satisfying the Court that the harm caused by the accused was necessary for either warding off the attack or for forestalling the further reasonable apprehension from the side of the accused. The burden of establishing the plea of self-defence is on the accused and the burden stands discharged by showing preponderance of probabilities in favour of that plea on the basis of the material on record. (See Munshi Ram and others v. Delhi Administration, AIR 1968 SC 702; State of Gujarat v. Bai Fatima, AIR 1975 SC 1478: State of U.P. v. Mohd. Musheer Khan, AIR 1977 SC 2226 and Mohinder Pal Jolly v. State of Punjab, AIR 1979 SC 577). Sections 100 to 101 define the extent of the right of private defence of body. If a person has a right to private defence of body under Section 97, that right extends under Section 100 to causing death if there is reasonable apprehension that death or grievous hurt would be the consequence of the assault. The oft quoted observation of this Court in Salim Zia v. State of U.P. (AIR 1979 SC 391), runs as follows:

"It is true that the burden on an accused person to establish the plea of self-defence is not as onerous as the one which lies on the prosecution and that, while the prosecution is required to prove its case beyond reasonable doubt, the accused need not establish the plea to the hilt and may discharge his onus by establishing a mere preponderance of probabilities either by laying basis for that plea in the cross-examination of the prosecution witnesses or by adducing defence evidence."

The accused need not prove the existence of the right of private defence beyond reasonable doubt. It is enough for him to show as in a civil case that the preponderance of probabilities is in favour of his plea."

(emphasis supplied)

14. The question that arises for consideration in the instant case is, whether there is evidence on the record of this case, to substantiate the plea of self-defence? Learned counsel for the appellant, answered in the affirmative. The basis of the aforesaid answer is, the injuries suffered by the appellant which, according to the appellant, were caused by the mob when the appellant was attacked. It was submitted, that the

gathering of neighbours and villagers, at the place of occurrence had attacked them, resulting in their being pushed back to the house of Sultan Bhat. It was submitted, that it was only in retaliation of the above attack, resulting in the injuries suffered by the accused, that the accused-appellant – Brij Lal, as also, the co-accused – Kashi Ram, had fired gunshots at the crowd, which was out and out to lynch them.

15. Having given our thoughtful consideration to the submissions advanced, at the hands of learned counsel for the appellant, we are of the view, that there is overwhelming evidence produced by the prosecution, affirming that the crowd which had gathered at the place of occurrence, consequent upon the shouting of Mohan Ram – PW-1, was unarmed. There is also evidence on the record of the case to authenticate, that all the villagers were only persuading the accused-appellant – Brij Lal and his co-accused – Kashi Ram, not to insist on carrying out their threat, to murder Mohan Lal – PW-15. The testimony of the prosecution witnesses also demonstrates, that there was substantial distance between the villagers, and the place at which the accused were standing in the opposite of the house of Sultan Bhat. Not only Mohan Ram – PW-1, but also Mohan Lal – PW-15, expressly deposed that none of the neighbours and co-villagers, was armed. Moreover, the reiteration by the witnesses, that the crowd comprised of men, women and children, by itself is sufficient, to infer that the neighbours and co-villagers were not aiming at causing any harm or injury to the accused-appellant or the co-accused. It cannot be overlooked, that one of the deceased - Mst. Munni Devi was a woman, and one of the injured – Sheria was a child of 5 years. On taking into consideration the entirety of the facts and circumstances of the case, especially the absence of any material evidence produced by the appellant (to demonstrate that gunshots fired by the accused and the co-accused were in self-defence), the instant contention cannot be accepted.

16. At this juncture, it is also necessary for us, to refer to two judgments relied upon by learned counsel for the appellant. Reliance was first placed, on Bhagwan Swaroop v. State of Madhya Pradesh, (1992) 2 SCC 406, wherefrom our attention was invited to the following observations:

> "9. We do not agree with the courts below. It is established on the record that Ramswaroop was being given lathi blows by the complainant party and it was at that time that gun-shot was fired

by Bhagwan Swaroop to save his father from further blows. A lathi is capable of causing a simple as well as a fatal injury. Whether in fact the injuries actually caused were simple or grievous is of no consequence. It is the scenario of a father being given lathi blows which has to be kept in mind and we are of the view that in such a situation a son could reasonably apprehend danger to the life of his father and his firing a gun-shot at that point of time in defence of his father is justified. We, therefore, set aside the finding of the courts below on this point and hold that Bhagwan Swaroop fired the gun-shot to defend the person of his father."

(emphasis supplied)

Reliance was also placed on Buta Singh v. State of Punjab (1991) 2 SCC 612, wherefrom, learned counsel placed emphasis on the following observations:

"8. From the above state of evidence, it appears that the defence version regarding the incident is a probable one and is supported by the find of blood from near the tubewell which is adjacent to the 'dera' of the appellant. When two versions are before the court, the version which is supported by objective evidence cannot be brushed aside lightly unless it has been properly explained. As stated earlier, the prosecution has not explained how blood was found from near the tubewell and no blood was found from the spot where according to them the incident occurred. In addition to this, the factum regarding the delay in lodging of the First Information Report and the suspicion that it was delayed with a view to concocting the prosecution case and further the delay in forwarding the special report to the Magistrate as well as the case papers to the hospital shows that the investigation was not above board. In these circumstances, we think that the approach adopted by the courts below cannot be justified.

9. Mr. Behl, learned Counsel for the State, however, vehemently argued that the appellant had exceeded his right of private defence. We do not think so. Both the appellant and his wife were attacked. They had sustained injuries. In the course of assault on them they caused injuries to the deceased and the prosecution witnesses. It is true that the High Court has come to the conclusion that all the injuries caused to the deceased were caused by the appellant Buta Singh. However, that is not the prosecution case. Besides,

even if it were so, having regard to the nature of the incident, it is difficult to say that he exceeded the right of private defence for the obvious reason that he could not have weighed in golden scales in the heat of the moment the number of injuries required to disarm his assailants who were armed with lethal weapons. We are, therefore, of the opinion that the submission of the learned Counsel for the State cannot be accepted in the facts and circumstances of this case."

(emphasis supplied)

17. Having perused the judgments relied upon by learned counsel for the appellant, and keeping in mind the facts and circumstances of the case, we are of the view, that no benefit can be derived by the appellant on the legal position expressed by this Court, with reference to the plea of self-defence. Herein, there is no evidence to demonstrate, that the accused-appellant – Brij Lal and the co-accused – Kashi Ram were actually attacked, and it was as a matter of self-defence that they fired at the crowd, with their pistols. We have already examined the relevant evidence, on the instant aspect of the matter above. We therefore find no merit in the first contention, advanced by learned counsel for the appellant.

18. The second contention advanced at the hands of learned counsel for the appellant was, that the entire prosecution version discloses, that the alleged intention of the accused-appellant – Brij Lal was to murder Mohan Lal – PW-15. It was submitted, that there was no occasion for the appellant to cause fatal injuries to three unknown persons, by firing shots at them. Even though, the second contention advanced by learned counsel seems to be interesting, yet we find no merit therein. The reason why the neighbours and the co-villagers had gathered at the place of occurrence was, to protect Mohan Lal – PW-15, by dissuading the accused from insisting on to carry out their objective. Consequent upon their being angered by the villagers, they retaliated by firing indiscriminately at the gathering. Since it was not disputed by the accused-appellant – Brij Lal, that three fatal (besides other) injuries, were caused by the accused-appellant and his co-accused, the onus lies on the appellant to demonstrate the reason and the justification for their action. The evidence produced by the prosecution demonstrates, that the accused had fired gunshots indiscriminately, on being angered by the gathering, which was trying to persuade them from carrying out their singular

A objective – to cause harm to the person of Mohan Lal – PW-15. Having accepted, that they had actually fired at the neighbours and the villagers, who had gathered at the place of occurrence, it does not lie in their mouth to raise such a plea. For the aforesaid reasons, we find no merit even in the instant contention.

B 19. The third contention advanced by learned counsel for the appellant was, that the recovery of the weapon, namely, the gun, with which the accused-appellant – Brij Lal had shot at the crowd, was not proved to have been recovered from the appellant. It was the contention of the learned counsel, that one of the recovery witnesses had deposed, that the gun recovered at the instance of the accused, was found wrapped C when it was dug out. The other witness to the recovery had stated otherwise. First and foremost, as noticed hereinabove, such a plea could have been raised only if the appellant had been in denial, and had adopted the stance, that he had not fired at the crowd at the time of occurrence. Since that is not his plea, the instant submission is wholly misconceived. D Secondly, the factum of recovery has been substantiated by the prosecution through the statements of Mohan Ram – PW-1 and Mohan Lal – PW-15. Even the signatures of the accused-appellant – Brij Lal were obtained on the "mazhar" prepared at the time of recovery. In such view of the matter, whether or not the recovered gun was found without any covering, or in a wrapped condition, when the same was E dug out, at the instance of the accused-appellant – Brij Lal, makes no difference, whatsoever. For the reasons recorded above, we find no merit in the instant contention.

20. The fourth contention advanced by learned counsel for the appellant was, that the co-accused – Kashi Ram, who was separately F tried, was acquitted. In this behalf, the projection of learned counsel was, that the very same witnesses, who were relied upon by the prosecution in the separate trial of the appellant, had deposed during the course of the trial conducted against the co-accused – Kashi Ram, and as such, the acquittal of Kashi Ram and the conviction of the accused- G appellant – Brij Lal, made no sense whatsoever. It would be relevant to mention, that the most vital prosecution witness, in the case on hand, was Mohan Lal – PW-15. All the allegations focus around Mohan Lal – PW-15. The entire prosecution story revolved around the fact, that the accused-appellant – Brij Lal and the co-accused – Kashi Ram were out and out to harm Mohan Lal – PW-15, on account of their previous discord.

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The witness Mohan Lal, who appeared as PW-15, before the trial Court, in the matter out of which the instant appeal arises, was fully described as, son of Balbir Chand, caste Meghwal, aged 38 years, resident of Village Ghuman, Tehsil Nawanshahr, Police Station Banga, District Jalandhar. Whereas, Mohan Lal who appeared as PW-16 in the trial of the co-accused – Kashi Ram, was described as, son of Lekhram Bhat (in the judgment dated 18.3.1994 rendered by the Additional Sessions Judge No.2, Sri Ganganagar, in Sessions Trial No.26 of 1993), wherein Kashi Ram was the accused. In the above judgment, most of the prosecution witnesses had resiled, and did not identify the co-accused – Kashi Ram, as the person involved in the occurrence. The position in the present case is just the reverse. All the relevant prosecution witnesses, duly identified the accused-appellant – Brij Lal. It is therefore not possible for us to accept, that the accused-appellant – Brij Lal deserves to be acquitted, because of the acquittal of Kashi Ram in the separate trial conducted against him. The instant contention is therefore, accordingly, declined.

21. The fifth contention advanced at the hands of learned counsel for the appellant was, that as a consequence of the aggressive attitude of the neighbours and the co-villagers, who had gathered at the place of occurrence, the accused-appellant – Brij Lal and the co-accused – Kashi Ram, were pushed back to a distance of about 200 feet from the house of Mohan Ram – PW-1. It was submitted, that the above factual position itself was sufficient, to demonstrate that the attitude of the people, who had gathered at the place of occurrence, was intimidatory in nature. And that, firing by the accused-appellant – Brij Lal and the co-accused – Kashi Ram, was merely a matter of self-defence. We have already expressed our view with reference to the issue of self-defence raised on behalf of the appellant, in substantial detail hereinabove. The aforesaid submission is sought to be projected again, by adding one further aspect to the factual narration, namely, the fact that when the gunshots were fired by Brij Lal and Kashi Ram, they were at a distance of more than 200 feet from the residence of Mohan Ram – PW-1. We find hardly any justification in the submission projected by learned counsel for the appellant, in a different perspective. The prosecution has clearly demonstrated through the testimony recorded on oath, that none of the persons gathered at the place of occurrence was armed in any manner. It is also apparent, that the crowd gathered at the place of occurrence was comprised of men, women and children. The fact, that there was a

A distance of about 17 to 18 feet between the accused-appellant – Brij Lal and the villagers, shows that there was no real threat to him when he opened firing at the unarmed gathering including women and children. It was only because of their desire to retaliate against the crowd, consequent upon the crowd having gathered to protect Mohan Lal – PW-15, cannot be a satisfactory reason for the appellant to fire gunshots B indiscriminately. It is therefore, not possible for us to accept even the fifth contention advanced by learned counsel for the appellant.

22. The last contention advanced by learned counsel for the appellant was, that Mohan Lal – PW-15 was also a part of the crowd, which the accused-appellant – Brij Lal and the co-accused – Kashi C Ram were facing, and as such, he ought to have fired at him, rather than at the other members of the crowd. The instant submission is wholly misconceived and does not arise at all. The accused-appellant did not even make the above suggestion to the prosecution witnesses, when they were being cross-examined on his behalf. Moreover, the actual D suggestion given was, that the accused had come to a general merchant shop to buy "biris" (traditional cigarettes), and that, they never come to the place of occurrence, or that, they had any intention to harm Mohan Lal – PW-15. In view of the conclusions recorded by us in response to the first, second and fifth contentions (advanced by learned counsel for the appellant), we find no merit in the instant contention, and the same is E also hereby rejected.

23. To be fair to learned counsel for the appellant, we must also refer to the judgment in Sunil Kumar Sambhudayal Gupta v. State of Maharashtra, (2010) 13 SCC 657, wherefrom, learned counsel placed emphatic reliance on the observations extracted herein below:

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"38. It is a well-established principle of law, consistently reiterated and followed by this Court that while dealing with a judgment of acquittal, an appellate court must consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial court were perverse or otherwise unsustainable. Even though G the appellate court is entitled to consider, whether in arriving at a finding of fact, the trial court had placed the burden of proof incorrectly or failed to take into consideration any admissible evidence and/or had taken into consideration evidence brought on record contrary to law; the appellate court should not ordinarily H set aside a judgment of acquittal in a case where two views are

possible, though the view of the appellate court may be the more probable one. The trial court which has the benefit of watching the demeanor of the witnesses is the best judge of the credibility of the witnesses. A

39. Every accused is presumed to be innocent unless his guilt is proved. The presumption of innocence is a human right. Subject to the statutory exceptions, the said principle forms the basis of criminal jurisprudence in India. The nature of the offence, its seriousness and gravity has to be taken into consideration. The appellate court should bear in mind the presumption of innocence of the accused, and further, that the trial court's acquittal bolsters the presumption of his innocence. Interference with the decision of the trial court in a casual or cavalier manner where the other view is possible should be avoided, unless there are good reasons for such interference. B C

40. In exceptional cases where there are compelling circumstances, and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/inadmissible material. A finding may also be said to be perverse if it is "against the weight of evidence", or if the finding so outrageously defies logic as to suffer from the vice of irrationality. (See Balak Ram v. State of U.P., (1975) 3 SCC 219, Shailendra Pratap v. State of U.P., (2003) 1 SCC 761, Budh Singh v. State of U.P., (2006) 9 SCC 731, S. Rama Krishna v. S. Rami Reddy, (2008) 5 SCC 535, Arulvelu v. State, (2009) 10 SCC 206, Ram Singh v. State of H.P., (2010) 2 SCC 445 and Babu v. State of Kerala, (2010) 9 SCC 189)." D E F

(emphasis supplied)

24. We have given our thoughtful consideration to the parameters laid down in the above judgment. We are however of the considered view, that the High Court relied upon cogent evidence, to set aside the order of acquittal passed by the Additional Sessions Judge. We are also satisfied in recording, that the trial Court had overlooked vital evidence recorded on behalf of the prosecution, specially during the cross-examination of the prosecution witnesses, whereupon, the position of G H

A there being any second way of viewing the facts, was absolutely out of question. We are of the considered view, that the statements of the two prosecution witnesses, namely, Mohan Ram – PW-1 and Mohan Lal – PW-15, along with the testimony of the other witnesses, would clearly and unequivocally lead to the inference, that the accused-appellant – Brij Lal was guilty of having committed the offence under Section 302 of the IPC, insofar as his having caused the murders of Om Prakash and Sultan Bhat are concerned. There is absolutely no question of extending the benefit of any doubt to the accused-appellant – Brij Lal, in the present case.

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C 25. For the reasons recorded above, we find no merit in this appeal and the same is, accordingly, dismissed.

Devika Gujral Appeal dismissed.