

Gulab Sonba Vs. State of Maharashtra

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Court : Supreme Court of India

Decided On : Oct-12-1970

Reported in : (1971)3SCC931

Judge : A.N. Grover,; J.C. Shah and; K.S. Hegde, JJ.

Appeal No. : Criminal Appeal No. 778 of 1970

Appellant : Gulab Sonba

Respondent : State of Maharashtra

Disposition : Appeal Allowed

Judgement :

A.N. Grover,; J.C. Shah and; K.S. Hegde, JJ.

1. We are of the view that the High Court was in error in summarily dismissing the appeal. The appellant had raised the plea that the death of Kisna was caused because of grave and sudden provocation. The trial court has held that the appellant Gulab had injuries on his person. The trial court has also found that Kisna was grazing his sheep, and when the appellant questioned Kisna, the latter "all of a sudden" dealt "stick blows on the head and shoulder" of the appellant. The finding may also give rise to a plea of self-defence which had to be considered by the High Court. The High Court was, in appeal, bound to consider the question whether the appellant had made out the case which he had pleaded, and which

appeared to arise on the judgment recorded by the trial court.

2. The order of the High Court is set aside and the proceedings are remanded to the High Court to be dealt with and disposed of in accordance with law. The High Court will issue notice to the State and hear the appeal.

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