

Om Parkash Vs. State

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Court : Delhi

Decided On : Aug-07-1986

Reported in : 30(1986)DLT311; 1986(11)DRJ155

Judge : Jagdish Chandra, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 983 of 1986

Appellant : Om Parkash

Respondent : State

Advocate for Pet/Ap. : Mr. Sud, Mr. Sud. Counsel

Judgement :

Jagdish Chandra, J.

(1) Petitioner Om Parkash seeks bail in the case Fir No. 64/86 of P. S.KalyanPuri under Section 302/34 Indian Penal Code Theallegationi of the prosecution in this case are that Mills Savita sister of Anil deceased had illicit sexual relations with the assailant Urnesh. The deceased accompanied by other members of his family went to the house of the petitioner in order to catch hold of Umesh. On reaching there at the house of the petitioner they wanted to catch hold of Umesh. The petitioner and his wife caught hold of the deceased and told Umesh to teach a

lesson to the deceased and his family members who wanted to catch hold of him whereupon Umesh immediately went inside the room of his house and brought out a knife and inflicted a blow with the same under the left side arm-pit of the deceased instantaneously. This finds mention in the Fir lodged by Kedar Singh father of the deceased. After saying all this and after some other sentences he says that the deceased was caught hold of by the petitioner and his wife and at their exhortation Umesh inflicted the aforesaid knife injury on the deceased which resulted into the death of the deceased.

(2) It is contended by Mr. Sud learned counsel for the petitioner that it happened all of a sudden inasmuch as Umesh brought the knife from inside without the asking of anybody including the petitioner and instantaneously gave the knife injury below the left side arm-pit and ran away with the weapon of offence and that the subsequent statement of the first informant after the few sentences that the petitioner and his wife while holding the deceased had exhorted Umesh whereupon he inflicted the knife injury on the person of the deceased appears to be just an after-thought addition with the result that there was no sharing of the common intention on the part of the petitioner and his wife with that of the assailant Umesh.

(3) On the other hand Mr. Sodhi learned counsel for the State say(r) that Section 34 Indian Penal Code is attracted in this case M against the petitioner.

(4) Mr. Sud. Counsel for the petitioner further submits that the deceased party had trespassed upon the premises of the petitioner and bids wife where the assailant Umesh was present and that they had no business to go over there to catch hold of Umesh who according to them had illicit relations with the sister of the deceased and that they could have reported the matter to the police regarding those illicit relations between the two and ought not to have taken the law into their own hands and that the occurrence happened all of a sudden with no pre-meditated intention on the part of Umesh to cause death and that the case even against Umesh assailant would fall only under the second part of 304 Indian Penal Code according to which the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is

likely to cause death. Looking to the aforesaid circumstances and the contentious raised by the learned counsel for both the parties, I order the release of the petitioner on his furnishing personal bond in the sum of Rs.5000.00 with one surety in the like amount to the satisfaction of the court concerned.

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