

1976 S C M R 155

Present : Muhammad Yaqub Ali, C. J., Anwarul Haq and Muhammad Haleem, JJ

MUHAMMAD SHAFI—Appellant

versus

THE STATE -Respondent

Criminal Appeal No. 21 of 1973, decided 5th December 1975.

(On appeal from the judgment and order of the Lahore High Court, Bahawalpur Circuit. Baghdadul Jadid, dated 26-1-1971 in Criminal Appeal No. 31 of 1969 (BWP)).

Penal Code (XLV of 1860)-

---- S. 304, Part II-Culpable homicide neat amounting to murder-Accused admitting to have caused injuries to deceased, placed hint on a she-camel and, taken to police station-Possibility of any third person causing injuries to deceased excluded-Number of injuries and their locale clearly showing that after delivering large number of blows with a stick to deceased accused eventually strangled him to death-- Accused admitting throughout to have caused death though attempting to minimise offence by advancing theory of private defence of property and person-Admissions, even taken as whole making lout case of exceeding right of private defence and bringing home to amused in light of medical evidence, offence of culpable homicide not amounting to murder-Accused held., rightly convicted under S. 304(II).

Maqbool Ahmad, Advocate-on-Record for Appellant.

Riaz Ahmad, Assistant A.-G., Punjab for the State.

Date of hearing: 5th December 1975.