

1985 S C M R 510

Present: Muhammad Haleem, C.J., Aslam Riaz Hussain, Shafiur Rahman and Zaffar Hussain Mirza, JJ

NADEEM-UL-HAQ KHAN and others--Appellants

versus

THE STATE--Respondent

Criminal Appeal No.12G of 1981, decided on 8th December, 1984.

(On Appeal from the judgment and order dated 1-6-1980 of the Lahore High Court, Lahore, in Criminal Appeal No.158/78).

(a) Constitution of Pakistan (1973)--

---Art.185(3)--Penal Code (XLV of 1860), Ss.302/34 & 307/34--Leave to appeal granted to examine and to ensure that "principles of appreciation of defence version in criminal cases have not been ignored by Courts below".--

(b) Penal Code (XLV of 1860)--

--Ss.302/34 & 307/34--Appreciation of evidence--Defence of accused being plausible making prosecution case against them doubtful--Accused not found to have exceeded right of private defence of their person having received numerous and serious injuries--Conviction and sentence of accused was set aside in circumstances.

Safdar Ali v. Crown P L D 1953 F C 93 applied.

(c) Criminal trial--

--- Two versions--Principle to be applied stated.

In a criminal case, it is the duty of the Court to review the entire evidence that has been produced by the prosecution and the defence. If, after an examination of the whole evidence, the Court is of the opinion that there is a reasonable possibility that the defence put forward by the accused might be true, it is clear that such a view reacts on the whole prosecution case. In these circumstances, the accused is entitled to the benefit of doubt, not as a matter of grace, but as of right, because the prosecution has not proved its case beyond reasonable doubt.

Safdar Ali v. Crown P L D 1953 F C 93 quoted.

M.B. Zaman, Advocate Supreme Court and Ch. Akhtar Ali, Advocate-on-Record for Appellants.

Ch. Ghulam Ahmad, Advocate Supreme Court instructed by Rao M. Yousaf Khan, Advocate-on-Record for the State.

Date of hearing: 8th December, 1984.