



IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
AIZAWL BENCH

CRL. APPEAL (J) 4 of 2024

1. Sh. P C Sanghluna,
Chalrang Village, Khawzawl District

.....Appellant

-Versus-

1. State of Mizoram Aizawl,
Mizoram

.....Respondent

For Appellant : Mr. Jordan Rohmingthanga, Amicus Curiae
For Respondent : Ms. Vanneihsiami, Additional Public Prosecutor
Date of Judgment : 30.10.2024

BEFORE
HON'BLE MR. JUSTICE NELSON SAILO
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

JUDGMENT

(Mridul Kumar Kalita, J.)

- 1)** Heard Mr. Jordan Rohmingthanga, learned Amicus Curiae for the appellant and Ms. Vanneihsiami, learned Additional Public Prosecutor for the State respondent.
- 2)** This Criminal Appeal (J) has been registered on receipt of an appeal petition filed by the appellant Sh. P. C. Sanghluna, impugning the judgment and order dated 10.05.2022 passed by the learned Sessions Judge, Champhai in S. R. No. 143/2017 arising out of Khawzawl P.S. Case No. 21/2017, whereby, the appellant was convicted and sentenced to undergo imprisonment for life under Section 302 of the Indian Penal Code.
- 3)** The appeal petition has been submitted by the appellant, who is serving out the sentence imposed on him in the Central Jail, Aizawl through the Special Superintendant, Central Jail, Aizawl. As the appellant was not defended by any counsel, Mr. Jordan Rohmingthanga, was appointed as Amicus Curiae to defend the cause of the appellant before this Court in this appeal.
- 4)** The facts relevant for consideration of the instant appeal, in brief, are as follows:

- a.** On 13.03.2017 one Rima Wia, ASI of Police Khawzawl Police Station lodged an FIR before the Officer-in-Charge of Khawzawl Police Station, *inter-alia*, stating that on 12.03.2017, he received a telephonic information from one F. Vanlathlanga Secretary Village Council Court Chalrang Village informing him that on that day (12.03.2017), at around 5.30 p.m., one Lalruatmawia son of C. Lalbiaksiam (L) of Chalrang village was stabbed on his left side of abdomen by the present appellant. The victim Lalruatmawia was immediately taken to PHC Khawhai, where he died. It was also stated in the FIR that the injury marks were found on the left side of the abdomen of the victim and no other external injury mark was found. It was further stated that the knife used by the accused to stab the deceased, one shirt and one sweater were seized.
- b.** On receipt of the FIR, Khawzawl P.S Case No. 21/2017 was registered under Section 302 of the Indian Penal Code and investigation was initiated.
- c.** The appellant was detained while he was on the way to Khawzawl Police Station. He was later on taken to the Police Station and was arrested.
- d.** During the course of the investigation, the Investigating Officer visited the place of occurrence, prepared the rough sketch map of the place of occurrence and seized the weapon (knife) used in committing the offence. After completing other necessary formalities regarding the investigation and finding sufficient material against the present appellant, the charge-sheet was

laid against the present appellant under Section 302 of the Indian Penal Code.

- e.** On 23.08.2017, the charge under Section 302 of the Indian Penal Code was framed against the present appellant for committing murder of Lalruatmawia. When the said charge was read over and explained to the appellant, he pleaded his innocence. However, he admitted that he did stab the deceased in exercise of his right of private defence as the deceased first attacked him with a wooden stool on his right shoulder, inside the residence of Sainghinglova at Chalrang Village.
 - f.** To bring home the charges, the prosecution side examined as many as eight (8) Prosecution Witnesses (from PW-1 to PW-9, no one was examined as PW-8).
 - g.** In his examination under Section 313 of the Code of Criminal Procedure, 1973, the appellant pleaded that he exercised his right of private defence when he was attacked by the deceased with a wooden stool.
 - h.** In support of the innocence of the appellant, the defence side also adduced the evidence of four (4) Defence Witnesses.
- 5)** Before considering the rival submissions made by the learned Amicus Curiae for the appellant as well as the learned Additional Public Prosecutor, Mizoram, let us go through the evidence which is available on record.
- 6)** PW-1, Rimawia, who is the first informant of the case, has deposed that, on 12.03.2017, while he was at Khawzawl Police Station, he received a telephone call from Mr. F. Vanlathlanga, Secretary of

Chalrang Village Council informing that on the same day at around 5.30 p.m., the appellant committed murder of one Lalruatmawia by stabbing him with knife. PW-1 has further deposed that on receipt of the information, he immediately rushed to Chalrang Village along with a police party. PW-1 has also deposed that on the way to the village, he met one person, who waived to the vehicle to stop them and on enquiring what is the matter, the said person said that "*I stabbed someone to death I am approaching the police to surrender before police for my own safety*". PW-1 has further deposed that he detailed one constable with the appellant to hide him in the Jungle, so that he may be kept safe from the enraged family members of the deceased person. Thereafter, with the remaining police personnel, PW-1 proceeded towards the Chalrang Village and reached the place of occurrence. He has further deposed that at the place of occurrence, he found pool of blood and the victim was found dead inside his residence. PW-1 has further deposed that he found one entry injury/cut injury on the left abdomen of the deceased of one inch width and also found one exit injury/cut injury of half inch width. He seized the weapon of offence, which is "*Chemete*" (knife) of 8 inches long from the library of Chalrang YMA. PW-1 has further deposed that during initial inquiry, it was revealed that as soon as the incident occurred, the deceased was rushed to Khawhai PHC, however, he died on the way. Later on, he was taken back to Chalrang village. It was reported that there was no doctor available at the PHC at the relevant point of time.

- 7)** PW-1 has also deposed that he sent the body of the deceased for postmortem examination to Khawhai PHC and came back to police station for lodging the *suo-moto* FIR which is exhibited as Exhibit P-1. He also deposed that he conducted the inquest and at the time of performing inquest the deceased was found wearing a red colour shirt and a strip sweater. He also exhibited the seizure memo in respect of the seizure of knife as Exhibit P-2 and the inquest report as Exhibit P-3. He also exhibited the requisition for postmortem examination of the deceased to the Medical Officer, PHC Khawzawl as Exhibit P-4. He also exhibited his signatures on the aforesaid exhibited documents.
- 8)** During cross examination, PW-1 has deposed that he seized the weapon of offence from the hands of YMA, who gathered at YMA library building. He answered in negative to certain suggestive questions put to him by the learned defence counsel during his cross examination.
- 9)** PW-2, Lalramhmuaki, has deposed that she lives in Charlang Village. She has also deposed that on the date of incident i.e., 12.03.2017, the appellant P. C. Sanghluna, the victim Ruatmawia and one Ruatsaka came to her house and watched television. She has also deposed that after sometime the appellant, P. C. Sanghluna and one Zosanga left her house and only the victim Lalruatmawia was there. PW-2 has further deposed that after 10 minutes, the appellant came to her house and from the door of her house, he said "Ruatmawia come out" and the victim replied that he will just light his smoke. At that time, the PW-2 went inside her bedroom and she heard some

thudding sound and she ran outside and saw the victim Lalruatmawia was lying on his back and the appellant was on top of him just outside his door at Varanda. She has also deposed that she saw a knife in the right hand of the appellant and the victim was holding the right hand of the appellant. She also saw blood on the knife. PW-2 has further deposed that the victim said "*help me I am stabbed*" and on this, the PW-2 started screaming. PW-2 has further deposed that on hearing her scream one Rinfela and Muanchhana came there and took the appellant's knife. PW-2 has further deposed that the victim thereafter, got up and made his way to his relative house. She also deposed that the victim Lalruatmawia put his hand over his injury and he shed blood on the road and she saw him collapsing just inside the door of his relative's house. PW-2 has also deposed that the victim was taken to hospital. However, he could not make it. She has also stated that as she was in shock and panic, she could not remember anything clearly.

- 10)** During cross examination, PW-2 has deposed that she did not see the appellant holding the knife. She has also deposed that after the appellant called the victim from outside, the appellant did not enter into her house. She has also deposed that both the appellant and the deceased were left handed. She has also deposed that she could not remember as to in which hand the appellant held the knife when they fell over. She has also deposed that when the deceased Lalruatmawia called for help, he did not mention who stabbed him and he did not mention that the appellant had stabbed him. She has answered in

negative to some suggestive questions put to her by the learned defence counsel.

- 11)** In re-examination of the PW-2 by the prosecution side, he has deposed that there was no one outside except the appellant and the victim.
- 12)** PW-3, Lalrinfela, has deposed that on 12.03.2017 at around 5.30 p.m. while he was roaming outside, he heard screams of Humaki (PW-2) from her house. PW-3 has also deposed that hearing the scream he ran to the house of the Humaki and on reaching, he saw the appellant P. C. Sanghluna lying over Lalruatmawia (victim) inside the house. He heard Lalruatmawia screaming "*he stabbed me*". PW-3 has deposed that he saw the appellant still holding a knife. At that time, PW-3 took the appellant by his neck and pulled him aside. He also stated that at that time his friend Muanchhana arrived there and took the knife from the appellant. PW-3 has also stated that while the appellant was lying over the deceased Lalruatmawia, their heads were outside the door and their feet were inside the house. He also stated that while they were preparing to take the victim to the hospital, the appellant threatened him by saying "*Do you also want to be stabbed*". He also stated that after a short while, the victim succumbed to his injuries. He also stated that he did not see the appellant holding a knife and he only heard the victim saying "*he stabbed me*", however, he did not hear the victim taking the name of the appellant. He also deposed that when he rushed to the place of occurrence, only the owner of the house Hmuaki (PW-2) was there.

- 13)** PW-4, Lalmuanchhana, has deposed that on 12.03.2017 at around 5.30 p.m. he was on the way to his home and when he reached the house of Lalramhumaki, he heard a desperate shouting for help from her house and when he rushed to her residence, he saw the appellant over the victim Lalruatmawia who was laying on the floor of the Varanda. He has further deposed that he saw the appellant holding a long knife in his left hand. PW-4 has also deposed that he snatched the knife from the hand of the appellant. The said knife was stained with blood. He has also deposed that as the victim Lalruatmawia was seriously injured, some person took him to CHC Khawhai. However, later on, he came to know that the victim succumbed to his injury before reaching CHC Khawhai. PW-4 has also deposed that after the incident the victim scrambled weakly from the place of incident.
- 14)** During the cross-examination, PW-4 has deposed that he did not see the appellant stabbing the deceased. PW-4 has also deposed that he snatched the knife and put it on the varanda of the house of the Ramhumaki. PW-4 has also deposed that when he grabbed and snatched the knife, no blood was stained on his hand.
- 15)** PW-5, PS Hmangaihzuala, has deposed that on 12.03.2017 at night time Khawzawl Police arrived at Chalrang village in connection with the case and seized one red colored shirt belonging to the deceased, which was drenched with blood. The police also seized the knife, by which the appellant was alleged to stab the deceased. He also deposed that he put his signatures on the seizure memo, which is

exhibited as Exhibit P-2 (c). He has deposed that he was not present at the place of occurrence at the time of incident.

- 16)** PW-6, LPC Lalruatkima, has deposed that on 12.03.2017, police seized one red colour shirt belonging to deceased drenched with blood and a knife by which the appellant was alleged to have stabbed the deceased. He put his signatures on the seizure memo, which is exhibited as P-2(b). During cross examination he has stated that he did not see the appellant holding the seized knife.
- 17)** PW-7, Dr. Thanmawii, has deposed that on 13.03.2017 at around 9.40 a.m., the police brought an application for postmortem examination of the deceased in connection with the case. He has deposed that he conducted postmortem examination and found the following:

There was a deep laceration measuring one inch length in upper abdominal wall below the medial side of left lower coastal margin. The muscle of chest wall was lacerated through the whole thickness starting from entrance wall upwardly. The left lung was found shrink and lacerated in the lower and middle lobe with collection of blood and thick blood clots.

The exit wound measuring half inch length was found at the back one inch lateral to mid line in between 4th and 5th ribs.

- 18)** PW-7 has further deposed that in his opinion the cause of death is due to stab to the left lung causing massive blood loss and collapse of lung and subsequently, to other vital organs of the body. He

exhibited the postmortem report as Exhibit P-4 and his signature as Exhibit P-4 (1).

- 19)** During cross examination, the PW-7 has deposed that from the findings of the injuries of the deceased, it appeared that while inflicting injury to the deceased by the assailant, they were facing each other. She also deposed that it could not be ascertained from the injury as to whether it was caused by the left hand or by the right hand.
- 20)** The Investigating Officer, S.I. Lalremruata, was examined as PW-9. He has deposed that at the relevant time of the incident he was the Officer-in-Charge of Khawzawl Police Station and on that day, one ASI Rimawia lodged an FIR regarding the offence involved in this case. PW-9 has deposed that after registration of Khawzawl P. S. Case No. 21/2017 on 13.03.2017, he took up the investigation of the case and visited the place of occurrence and examined the informant, drew the rough sketch map of the crime scene. He has also deposed that after the incident, the appellant ran towards the Khawzawl Police Station for surrendering and on his way to Khawzawl Police Station, he met ASI Rimawia and he was detained and later on, he was brought to Khawzawl Police Station and was formally arrested. After completion of investigation, the PW-9 submitted charge-sheet against the appellant under Section 302 of the Indian Penal Code. He exhibited four documents, namely, the arrest memo, the copy of register of natural death, copy of prayer of medical examination of the accused and copy of charge-sheet as Exhibit Nos. 7, 8, 9 and 10, respectively.

- 21)** During the cross-examination, PW-9 has deposed that he found no blood in the clothes of the appellant and no blood grouping of the deceased was done. He has also stated that no DNA profiling was done to prove that blood and knife and blood of the deceased matched.
- 22)** During his examination, under Section 313 of the Code of Criminal Procedure, 1973 the appellant has stated that on 12.03.2017 he consumed liquor along with the deceased in the residence of Sainghinglova. He has also stated that there was a squabble between him and the deceased with escalated.
- 23)** The question Nos. 6 and 7 posed to the appellant, during his examination, under Section 313 of the Code of Criminal Procedure, 1973 and answer given to the same by the appellant are relevant and therefore, same are quoted herein below:

"(6). The evidence against you is that you left the deceased at the said place (Sainghinglova's residence) and went to your house. From there you came back to the place of occurrence with a knife on your hand. Is it correct?"

Ans: No it is not correct. I did go home and then went to the house of Ramthianghlina and submit my electric bill to him. After that I returned home and took a knife from my house and went to Leipui to check the traps that I had laid for rats etc. From Leipui I went straight to the house of Sainghinglova. I met the deceased there. I said to the deceased "Ruata,, I'm sorry, I'll explain". And with that word only I was stepping out of the said house and the deceased all of a sudden assaulted me from behind with wooden stool, He gave a blow on my right shoulder with that stool. In retaliation I swung my left hand with a knife on my hand and then hit the deceased.

Q (7). The evidence against you is that as a result of the knife injury the deceased succumb to his injuries on the place of occurrence. Is it correct?

Ans:- No it is not correct. After I had inflicted knife injury, the deceased was quickly brought to Khawzawl CHC and was declared dead about 1 hour after the incident. I do admitted that the deceased got injury from my knife."

- 24)** The brother of the appellant, namely P C Dingpuia, has deposed as DW-1. During his evidence, he has stated that the victim and the appellant often go to drink liquor together. He also deposed that he had no knowledge about the bad character of the appellant. He has also stated that he did not witness the incident himself.
- 25)** DW-2 namely, Hauzamliaha has deposed that the brother-in-law of the appellant has deposed that he does not know much about the incident however, he is aware about an earlier incident, where victim said to the appellant that he would kill him some day.
- 26)** DW-3 P.C. Lalrinkima has deposed that he was not present at the place of occurrence at the time of incident. However, on hearing about the incident when he went to the place of incident, he found the appellant was already detained by the leaders of the Community. He has also stated that the appellant P. C. Sanghluna bears a good character and is liked by everyone around him.
- 27)** The DW-4, Rony Malsawmtluanga, who is the nephew of the appellant has deposed that he came to know about the incident from his uncle and aunt who were there at the village when the incident had occurred. He has stated that he went to visit the appellant in the jail when he was detained there and came to know about the

incident from him. DW-4 has also stated that the appellant told him that on the night of the incident the appellant and the deceased were drunk and there was some misunderstanding, which resulted into fighting and the incident occurred unintentionally.

- 28)** Learned Amicus Curiae for the appellant has submitted that from the evidence available on record, it is clear that the assault by the appellant on the deceased was not intentional. He further submitted that it was an unintentional act by the appellant when he was attacked by the deceased with a wooden stool, when he called the deceased to sort out their misunderstanding amicably.
- 29)** Learned Amicus Curiae for the appellant has submitted that there is no eye witness to the incident of murder and the case of prosecution is only based on the circumstantial evidence. He has also submitted that on the day of the incident, the appellant had consumed liquor and he was in an inebriated condition and he never intended to kill the deceased Lalruatmawia. He has also submitted that the Trial Court erred in rejecting the plea of self defence taken by the appellant without considering the evidence on record in its right perspective. It is submitted by the learned Amicus Curiae that the plea of the appellant that the deceased all of a sudden assaulted him from behind and that in retaliation he swung his left hand with a knife in his hand and hit the deceased, was not properly considered by the Trial Court as the evidence shows that the injury caused to the deceased by the appellant was unintentional.
- 30)** Learned Amicus Curiae for the appellant has also submitted that this case squarely falls within the exception 4 to the Section 300 of the

Indian Penal Code as it was committed without premeditation in a sudden fight in heat of passion upon a sudden quarrel without the appellant having taken undue advantage or acted in quarrel or in unusual manner. He has submitted that there was no intention on the part of the appellant to commit murder of the deceased Lalruatmawia.

31) Learned Amicus Curiae has submitted that under the facts and circumstances of the case, the conviction of the appellant may only be under Section 304 Part-II of the Indian Penal Code and, therefore, he prays for accordingly modifying the impugned judgment and sentence. In support of his submissions, learned Amicus Curiae has cited following rulings:

a. "*Premchand Vs. State of Maharashtra*" reported in (2023) 5 SCC 522

b. "*Vishawajeet Kerba Masalkar Vs. State of Maharashtra*" reported in 2024 SCC Online 2884

32) On the other hand, learned Additional Public Prosecutor has submitted that the Trial Court has rightly arrived at the finding of the guilt of the appellant under Section 302 of the Indian Penal Code and has only imposed the minimum punishment, which could have been imposed for commission of the said offence.

33) Learned Additional Public Prosecutor has submitted that the circumstantial evidence on record against the appellant fully establishes the guilt of the appellant and the circumstances are of conclusive nature and tendency. She also submits that there is no missing link in the chain of evidence which leads to only conclusion of

guilt of the appellant. She submits that during his examination under Section 313 of the Code of Criminal Procedure, 1973, the appellant has admitted that he had stabbed the deceased with a knife. She also submits that there is no evidence of any quarrel between deceased and the appellant on the date of incident. She also submits that the evidence regarding the appellant after committing the offence had rushed towards Khawzawl Police Station for surrendering before the police when read with other evidence on record leave no room for any doubt that appellant intentionally committed murder of the deceased Lalruatmawia.

- 34)** We have considered the submissions made by the learned counsel for both the sides. We have also meticulously gone through the evidence available on record. We have also gone through the rulings cited by learned Amicus Curiae for the appellant.
- 35)** The evidence available on record shows that there is no eye witness witnessing the actual incident of stabbing of the deceased by the appellant on 12.03.2017. However, the circumstantial evidence available on record appears to be of conclusive nature pointing towards the guilt of the appellant of having committing murder of the deceased Lalruatmawia.
- 36)** Though, there are minor discrepancies in the evidence relating to circumstances from which the guilt of the appellant proved, however, those discrepancies (for example, in which hand the appellant was holding a knife at the time of assault) are not material so as to affect the merit of the prosecution case. The defence side has failed to

impeach the credibility of the testimony of prosecution witnesses on material aspects.

37) From the evidence discussed in the foregoing paragraphs, following circumstances were found to be fully established:-

- i.** On 12.03.2017, the appellant P. C. Sanghluna, the deceased Lalruatmawia and one Ruatsaka were watching television in the house of PW-2 Lalramhmuaki.
- ii.** After sometime the appellant P. C. Sanghluna, Ruatsaka and one Zosanga left for home leaving the deceased Lalruatmawia in the residence of PW-2 Lalramhmuaki.
- iii.** After sometime (about 10 minutes) the appellant came back to the house of the PW-2 Lalramhmuaki and call the deceased Lalruatmawia to come out.
- iv.** At that time, PW-2 Lalramhmuaki was inside the house.
- v.** When PW-2 Lalramhmuaki was in her bedroom, she heard some thudding sound and she ran outside.
- vi.** The PW-2 Lalramhmuaki saw the deceased Lalruatmawia was lying on his back and the appellant was on top of him with a knife in his hand. (Though PW-2 has deposed that she saw the knife in the right hand of the appellant, the appellant in his statement under Section 313 of the Code of Criminal Procedure, 1973 has stated that he was holding the knife in his left hand. However, the fact that he was holding the knife in his hand is not disputed).
- vii.** The PW-2 Lalramhmuaki started screaming.

- viii.** On hearing the scream of PW-2, the PW-3 Lalrinfela and PW-4 Lalmuanchhana rushed to her house.
- ix.** PW-3 and PW-4 also saw that the deceased Lalruatmawia was lying and the appellant was holding a knife.
- x.** PW-3 took the appellant P. C. Sanghluna by his neck and pulled him aside and PW-4 snatched the knife from the hand of the appellant.
- xi.** The deceased Lalruatmawia had uttered, *"I am stabbed"*.
- xii.** Both PW-3 and PW-4 saw stab injury on the left side of the abdomen of the deceased Lalruatmawia, he was seriously injured and the knife was stained with blood.
- xiii.** PW-1, Rimawia, while he was on the way to Chalrang Village, on getting the telephonic information about the incident, met the appellant on the way who told him that *"I stabbed someone to death, I am approaching the police to surrender for my own safety"*.
- xiv.** The blood stained shirt of the deceased Lalruatmawia and the knife was seized.
- xv.** The deceased Lalruatmawia succumbed to his injury.
- xvi.** The postmortem examination report of the deceased shows deep lacerated wound in the upper abdominal wall and injury to left lung. In the opinion of PW-7 Dr. Thanmawii, the cause of death was due to stab to the left lung causing massive blood loss and collapse of lungs and other vital organs of the body.

- xvii.** In the statement under Section 313 of the Code of Criminal Procedure, 1973 the appellant P. C. Sanghluna has admitted that he went to the house of Sainghinglova (husband of PW-2) and there he hit the deceased Lalruatmawia with a knife in retaliation.
- xviii.** The appellant P. C. Sanghluna, in his statement under Section 313 of the Code of Criminal Procedure, 1973 has categorically admitted that the deceased got injury from his knife and he inflicted only a single stab injury.
- 38)** The above circumstances are fully established from the evidence of prosecution witnesses and same has been relied upon by the Trial Court to arrive at the conclusion of the guilt of the appellant.
- 39)** In the case of "***Sharadbirdi Chandra Sharda Vs. State of Maharashtra***" reported in **(1984) 4 SCC 116**, the Supreme Court of India has settled the law with regard to conviction on the basis of circumstantial evidence, wherein it has observed as follows:

"154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.

153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 :

1973 Cri LJ 1783] where the observations were made:
[SCC para 19, p. 807: SCC (Cri) p. 1047]

"Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is *Hanumant v. State of Madhya Pradesh* [(1952) 2 SCC 71 : AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri LJ 129] . This case has been uniformly followed and applied by this Court in a large number of later decisions up-to-date, for instance, the cases of *Tufail (Alias) Simmi v. State of Uttar Pradesh* [(1969) 3 SCC 198 : 1970 SCC (Cri) 55] and *Ramgopal v. State of Maharashtra* [(1972) 4 SCC 625 : AIR 1972 SC 656] . It may be useful to extract what Mahajan, J. has laid down in *Hanumant* case [(1952) 2 SCC 71 : AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri LJ 129] :

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of

a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

- 40)** In the instant case, the circumstances enumerated in paragraph No. 36 of this judgment are established from the evidence on record and it leads only to the conclusion of the guilt of the appellant. The said circumstances also form a chain of evidence so complete so as to not to leave any reasonable doubt for any conclusion that the deceased Lalruatmawia did not die due to the stab injury caused to him with a knife by the appellant.
- 41)** The only question which needs consideration is as to whether the injury was caused by the appellant in exercise of his right to private defence when he was attacked by the deceased.
- 42)** The Trial Court after considering the statement of the appellant, under Section 313 of the Code of Criminal Procedure, 1973, regarding the plea of self defence taken by him, came to the finding that there is no material on record to support the plea of self defence taken by the appellant. Though, the appellant has stated that he was assaulted from behind with a wooden stool by the deceased on his right shoulder, however, there is no evidence on record regarding any kind of injury on the person of the appellant after he was arrested. None of the four defence witnesses examined by the defence side had stated anything regarding any injury on the person

of the appellant after the incident, neither any of them had stated anything regarding any assault made by the deceased Lalruatmawia on the appellant at the time of the incident.

- 43)** Even if we consider that the appellant was in an inebriated condition when the offence was committed, he would not get any benefit of the fact of committing the offence in a state of inebriation, as there is no evidence on record to show that the liquor, due to which he got inebriated, was administered to him without his knowledge or against his will.
- 44)** Thus, there is no evidence on record to the effect that the appellant had stabbed the deceased without premeditation in a sudden fight in the heat of passion upon sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner, rather there is evidence that after leaving the house of PW-2 Lalramhmuaki, the appellant came back there with a knife and called the deceased Lalruatmawia and had stabbed him.
- 45)** We are, therefore, of the view that the Trial Court had correctly discarded the plea of self defence taken by the appellant due to lack of evidence to that effect.
- 46)** We are also of the view that this case does not fall within any of the exceptions to Section 300 of the Indian Penal Code. The evidence on record shows that the appellant had stabbed the deceased with a knife with an intention of causing his death.
- 47)** The facts of the cases cited by learned Amicus Curiae for the appellant are distinguishable from the facts of the instant case,

therefore, the judgments cited by the learned Amicus Curiae is of help to the case of the appellant.

- 48)** For the reasons discussed in the foregoing paragraphs, we are of the view that the impugned judgment needs no interference by this Court.
- 49)** This jail appeal is accordingly dismissed.
- 50)** Send back the trial court record along with a copy of this judgment to the Trial Court.
- 51)** For the valuable assistance rendered by the learned Amicus Curiae, he shall be paid fee as per the rates applicable by the Mizoram State Legal Services Authority.

JUDGE

JUDGE

Comparing Assistant