

Present: Sirimane, J., Wijesundera, J. and Ratwatte, J.

R. G. W. APPUHAMY, Accused-Appellant and THE REPUBLIC OF SRI LANKA

S. C. 50/74—H. C. Ratnapura 753/73

*Criminal Law—plea of self-defence by one of the accused—effect of acquittal of co-accused.*

Where the 1st accused admitted the shooting and pleaded self-defence and the Trial Judge had not mentioned to the Jury what the position would be in the event of their deciding to acquit the 2nd and 3rd accused and what bearing such acquittal will have on the evidence led against the 1st accused—

*Held:* It was for the 1st accused to satisfy the Jury on a balance of probability that his version was the more probable one. The acquittal of the 2nd and 3rd accused, as the evidence led against them was considered insufficient or disbelieved, would have no effect on the 1st accused since the case for the 1st accused has to be considered on the footing of his admission of the shooting and on his plea of self-defence.

Appeal against a conviction at a trial before the High Court, Ratnapura.

*Mrs. Manouri Muttetuwegama*, for the accused-appellant.

*T. Marapana*, State Counsel for the State.

May 19th, 1975. SIRIMANE, J.

The appellant was convicted on two counts of murder and sentenced to death.

We have examined the written submissions of learned counsel for the accused-appellant and also heard counsel on those submissions. She has urged that the learned Trial Judge has not mentioned to the Jury what the position would be in the event of their deciding to acquit the 2nd and the 3rd accused and what bearing such an acquittal will have on the evidence led against the 1st accused.

It must be remembered that the 1st accused in this case admitted the shooting and pleaded self-defence. The version given by the 1st accused was placed before the Jury and it was for the 1st accused to satisfy the Jury on a balance of probability that his version was the more probable. The Jury, however, rejected that version. In these circumstances the fact that the 2nd and the 3rd accused were acquitted, as the evidence led against them was considered insufficient or disbelieved, would have no effect on the 1st accused since the case for the 1st accused had to be considered on the footing of his admission of the shooting and on his plea of self-defence. We do not see any reason to interfere with the verdict as the learned Trial Judge has adequately dealt with all the other aspects of the case in his charge.

Learned counsel for the appellant also urged that the question of knowledge had not been adequately put before the Jury relating to the death of the woman, K. A. Lamahamy. On a consideration of all the circumstances of this case, including the fact that a short while earlier to the shooting of the woman Lamahamy the accused had shot her son, we do not think that there is any reason to interfere with the verdict on this account.

In the circumstances we affirm the verdict and dismiss the appeal.

WIJESUNDERA, J.—I agree.

RATWATTE, J.—I agree.

*Appeal dismissed.*

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