

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 30th October, 2009*

+ **CRL.APPEAL No.83/2007**

RANBIR SINGH RAWATAppellant
Through: Mr.V.P.S.Charak, Advocate.

versus

STATERespondent
Through: Ms.Richa Kapoor, A.P.P.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.

1. The appellant has been convicted for the offence punishable under Section 302 IPC pertaining to the death of Har Dayal Singh. He has also been convicted for the offence punishable under Section 307 IPC for the injuries caused to Aditi Asthana, the daughter of Har Dayal Singh.

2. As per the post-mortem report Ex.PW-6/A pertaining to Har Dayal Singh, it is evidenced that he died due to a stab injury inflicted on the left side front of the chest which pierced the right lung. The consequence was haemorrhagic shock. The said injury has been opined to be sufficient in the ordinary course of nature to cause death.

3. The knife recovered at the spot where the offence took place, sketch whereof is Ex.PW-6/B shows that it has a blade of 20 cm with thickness 2 cm. The handle is 12.5 cm. The cutting edge of the knife is sawed.

4. The MLC Ex.PW-3/A of Aditi Asthana records an injury on her neck caused by a sharp-edged weapon. The injury is described as: *Spindle shaped incised wound – incised wound approximately 2.5 cm x 0.5 cm on the left side of intro lateral aspect of the neck with active bleeding.* The injury has been opined to be dangerous.

5. Rather than note the entire evidence of the prosecution and as a result pen a lengthy judgment, we may note at the first instance certain incriminating evidence which has been admitted by the appellant when he was examined under Section 313 Cr.P.C. The appellant admitted being employed as a domestic help in the house of Dr.A.K.Khare at flat No.D-II/346 Vinay Marg, Chanakya Puri, a year and a half prior to the date of the incident in which Har Dayal Singh and Aditi Asthana were injured. He also admitted that about two months prior to the incident Har Dayal, father of Dr.A.K.Khare started residing in the flat and had brought along with him another domestic help Kalu. He also admitted that two or three days prior to the date of the incident, Ms.Aditi Asthana, daughter of Har Dayal had shifted to the flat. He further admitted that two days prior to the incident, Dr.A.K.Khare had

left for a pilgrimage to Gangotri. The appellant further admitted that at the time of the incident, Har Dayal and his daughter Aditi were sleeping in a bedroom. Kalu was sleeping in the lobby near the kitchen and he was to sleep in the drawing room. The appellant further admitted that in the middle of the intervening night of 10th and 11th June 2001, Har Dayal Singh was fatally stabbed and his daughter Aditi also received injuries.

6. But, the appellant denied that he caused injury to the deceased or Aditi.

7. It is not in dispute that the appellant was apprehended at the spot. It is also not in dispute that the pant Ex.P-6 which he was wearing when he was apprehended was found, as per report Ex.PW-22/B to be stained with human blood of the same group as that of the deceased.

8. As per the prosecution, the motive for the crime was the desire of deceased Har Dayal to impress upon his son to do away with the services of the appellant and engage Adarsh Kumar @Kalu as the domestic help.

9. Aditi PW-1 has deposed that her father Har Dayal was residing with her brother at Government Flat D-II/346 Vinay Marg, Chanakya Puri and that her father had brought with him Kalu as a domestic help. Her father had desired to do away with the services of the appellant. Two days prior to the date 10.6.2001, her brother had gone on a pilgrimage to

Gangotri with his family and she was staying with her father. On 10.6.2001 she and her father went to sleep at around 10:30 PM. Both were sleeping in the same bedroom. Kalu slept in the lobby nearby and the appellant slept in the drawing room. At around 2:30 in the night the cry of her father disturbed her sleep and she saw the appellant with a knife which he struck on her father's chest. She responded to rescue her father and the accused inflicted a knife blow on the left side of her neck. Hearing the hue and cry, neighbours gathered. With the help of Kalu she summoned the police. The appellant was apprehended at the spot and she was removed to the hospital.

10. Kalu PW-8 deposed that when he was sleeping in the gallery of the flat, at around 2:00 AM (night) cries of Aditi awoke him and he went to the room where the deceased and Aditi were sleeping and saw the deceased lying in a pool of blood. At the asking of Aditi he rang up the police. Aditi told him that the appellant had stabbed her father and Aditi.

11. Learned counsel for the appellant very fairly concedes that in view of the testimony of Aditi and Kalu it stands established that the appellant is the culprit. With reference to the testimony of Aditi and Kalu as also the testimony of Inspector Sudhir Kumar PW-13 who was the first police officer to reach the flat after the incident, it stands established that the appellant was apprehended at the spot.

12. Thus, the fact that the appellant fatally stabbed the deceased and also stabbed Aditi is not in dispute, being a fact duly proved at the trial and conceded as proved at the hearing of the appeal.

13. The only submission urged by learned counsel is that from the testimony of Aditi and Kalu it is evidenced that the appellant made no attempt to flee. There from, deduces learned counsel that the intention of the appellant was to simply injure the deceased as an act of revenge for the reason the deceased wanted to throw out the appellant from service. Counsel urges that the blow was struck in darkness and therefore it cannot be said that the appellant intended to strike the blow on the chest of the deceased. Further, counsel urges, that only a single blow being inflicted on the deceased also suggests the intention to cause injury to the deceased and not murder him.

14. From the testimony of Aditi, it is apparent that but for Aditi responding to the cries of her father, the appellant would have struck more blows on her father. That the appellant assaulted Aditi who responded to the cry of her father evidences the intention of the appellant to do more than merely injuring Har Dayal. The weapon of offence used by the appellant, as noted above is not a simple knife, but one with a blade length of 20 cm and a width of 2 cm.

15. It is true that it was night time and the deceased and Aditi were sleeping with lights switched off. But experience guides us that the street lights which filter inside a bedroom even when curtains are drawn can sufficiently guide a third person to see a human being sleeping on a bed and target a particular part of the body intended to be injured.

16. There is no rule of law that a single stab blow must mean that the only inference possible is the intention not to cause the death of the victim. We need not catalog the various judicial pronouncements in which single stab blows were held indicative of an intention to cause death. Suffice would it be for us to note that the attendant circumstances under which the blow is inflicted have to be kept in mind and the act as cocooned within the circumstances has to be viewed to ascertain the intention of the assailant.

17. Keeping in view the motive, the nature of the weapon of offence, the ferocity of the blow with which the assault was made, the fact that but for Aditi intervening more blows could be inflicted upon the deceased, the fact that an attempt was made to cut the neck of Aditi, compel us to hold that the view taken by the learned Trial Judge is correct. We concur with the finding returned that pertaining to the death of Har Dayal, the offence committed by the appellant is that of murder. From the injury caused to Aditi, noting that an attempt was made to cut her neck with the knife in question,

we concur with the view taken by the learned Trial Judge that the offence of attempt to murder Aditi is also made out. Noting that for the offence of murder the sentence imposed is to undergo imprisonment for life and for the offence of attempt to murder the sentence imposed is seven years rigorous imprisonment, we dismiss the appeal.

18. The appellant is in jail. Copy of this order be sent to the Superintendent, Central Jail, Tihar for being supplied to the appellant.

(PRADEEP NANDRAJOG)
JUDGE

(SURESH KAIT)
JUDGE

October 30, 2009
Dharmender