JAI LAL

v.

DELHI ADMINISTRATION

April 30, 1968

[R. S. BACHAWAT AND A. N. GROVER, JJ.]

Indian Penal Code, 1860 *s.* 84—*Scope of.*

From 1958 the appellant was a Railway employee and often lost his temper and had altercations with other clerks in the office. In October 1960 he was found to be suffering from a mental illness as he exhibited symptoms of acute schizophrenia and showed disorder of thought, emotion and perception of external realities. He was treated for and was cured of this illness by July 1961 when he resumed his duties. On the morning of November 25, he went to office as usual but as he was late in attendance, he was marked absent. He applied in writing for one day's casual leave and returned home. No one noticed any symptoms of any mental disorder at that time. Just after 1 o'clock he entered his neighbour's house and stabbed and killed a girl 1½ year old and later also stabbed and injured two other persons with a knife. He was thereafter arrested and interrogated on the same day when he gave normal and intelligent answers. After his arrest and upon a medical examination, the appellant was declared to be lunatic though not violent and the psychiatrist found that he had had a relapse of schizophrenia. On September 6, 1962, he was reported as cured and was thereafter committed for trial in February 1963. The trial court convicted him under ss. 302 and 324 of the Indian Penal Code and sentenced him to life imprisonment. During the trial and in the subsequent appeal to the High Court, the defence plea was one of insanity which was concurrently rejected by both Courts.

On appeal to this Court by special leave.

HELD : dismissing the appeal :

The appellant was not insane at the time of the killing and stabbing and knew the consequences of his acts. He must therefore be held criminally responsible for his acts. [144 H]

To establish that the acts done were not offences under s. 84 it must be proved clearly that at the time of the commission of the acts the appellant, by reason of unsoundness of mind, was incapable of knowing that the acts were either morally wrong or contrary to law. There was clear evidence that on the morning of November 25 the appellant's mind was normal and also that he knew that his act of stabbing and killing was contrary to law. He concealed the weapon of offence. He bolted the front door of his house to prevent arrest. He then tried to run away by the back door. When an attempt was made to apprehend him he ran back to his house and bloted the door. He then tried to disperse the crowd by throwing brickbats from the roof. His conduct immediately after the occurrence displayed consciousness of his guilt. [143 F; 144 D—E]

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 38 of 1965.

A Appeal by special leave from the judgment and order dated July 28, 1964 of the Punjab High Court (Circuit Bench) in Criminal Appeal No. 40-D of 1963.

S. N. Prasad, for the appellant.

H. R. Khanna and *S. P. Nayyar,* for the respondent.

B

The Judgment of the Court was delivered by

Bachawat, J.—The Additional Sessions Judge, Delhi, convicted the appellant under sec. 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life. The Judge also convicted the appellant under sec. 324 of the Indian Penal Code, C sentenced him to undergo six months rigorous imprisonment and directed that the two sentences would run concurrently. An appeal was filed in the High Court of Punjab. The High Court dismissed the appeal. The appellant has filed this appeal after obtaining special leave.

D The appellant lives at Sat Nagar in Delhi. On November 25, 1961 at 1.45 p.m. he entered the house of his neighbour Somawati and stabbed her daughter Leela aged 1½ years with a knife. He inflicted five stab wounds, one on the back trunk, one on the right gluteal region, two on the right thigh and one on the chest. The injury on the back of trunk, proved fatal. Leela died in the hospital at 4 p.m. The appellant then returned to his house E and bolted the front door. A crowd collected near the front door and raised an alarm. After some time the appellant went out by the back door and stabbed another neighbour Parbati and then Raghubir who tried to intervene on her behalf. The injuries were simple incised wounds Rabhubir and others tried to apprehend him. He then ran back to his house, bolted the door F and started throwing brickbats from the roof. He was later arrested by the police. All these facts are proved by unimpeachable evidence.

One Dhani Ram was the father of Leela. Dhani Ram, his wife Somawati, his daughter Leela and his brother Baburam lived together in the same house. Indra is the appellant's sister. The G appellant and his father suspected that Baburam was prone to making illicit approaches to Indra. On this account, the appellant had a long standing grudge against Baburam. This enmity is said to be the motive of the attack by the appellant on Leela, a member of the family of Baburam. The motive for the attack on Parbati is not clear. Raghubir was attacked because he tried H to intervene.

The defence plea was of insanity. The Additional Sessions Judge and the High Court concurrently rejected this defence.

We may briefly notice the evidence bearing on the plea of insanity. Since 1958 the appellant was an employee in the Stores Branch of the Northern Railway Headquarters in Baroda House, New Delhi. In 1958 and 1959 he had altercations with other clerks in the office. On May 20, 1959 his superior officer observed that he was prone to lose temper in no time. In his moments of excitement he became dangerous and used to hit his colleagues with anything that he could lay his hands on. But at the time of his greatest excitement he could distinguish between right and wrong. After May 1959 he worked at his desk as a normal man. In March 1960 he again quarrelled with another clerk. He was suspended and sent for medical examination. At this stage he was suffering from mental illness. On October 12, 1960 he was examined by a psychiatrist who found that he exhibited symptoms of acute schizophrenia and showed disorder of thought, emotion and perception of external realities. The psychiatrist said that he was harbouring certain delusions. The nature of the delusions is not stated. It is not proved that the appellant suffered from any particular delusion or hallucination. The appellant was put on a drug named largactil and was given convulsive electro-therapy treatment. On January 12, 1961 he was cured of his illness and was advised to join his duties. On resuming his duties the appellant worked in the office in the normal manner.

There is some evidence that on the morning of November 25, 1961 and the preceding night, the appellant complained that he was unwell and took medicine. But on the morning of November 25, he went to his office as usual. He was late in attendance and was marked absent. He applied in writing for one day's casual leave stating that he had an urgent piece of work at home. Nobody noticed any symptoms of mental disorder at that time. He left the office at about 11.30 a.m. and returned home alone. At 1.45 p.m. he stabbed Leela, Parbati and Raghubir with a knife. He concealed the knife and a search for it has proved fruitless. At 2.45 p.m. the investigating officer arrived on the spot, arrested the appellant and interrogated him. He was then found normal and gave intelligent answers. On the same date he was produced before a Magistrate. His brother was then present but the Magistrate was not informed that he was insane. On November 27, he was interrogated by an Inspector. It does not appear that he was then insane.

On November 30, the appellant's brother filed an application before the committing magistrate stating that the appellant was insane at the time of the occurrence. The appellant was later remanded to judicial custody. On receipt of another application from his brother he was kept under medical observation from December 16 to December 23. On December 19 the medical

officer noted that the appellant was indifferent to his surroundings and personal cleanliness, preoccupied in his thoughts muttering to himself, making meaningless gestures, losing track of conversations, given to delayed and repetitive answers and unable to give detailed account of incidents leading to his arrest. On December 23, he was declared to be a lunatic though not violent. The psychiatrist noted that the appellant had a relapse of schizophrenia and was suffering from disorder of thought, emotion and loss of contact with realities. From his attitude and manner of talk he was found to be aggressive. On September 6, 1962 the psychiatrist reported that the appellant was cured and was in a position to understand proceedings in court. The commitment order was made on January 4, 1963. The trial started in February 1963. The appellant was sane at the time of the trial.

The group of ailments dubbed schizophrenia is discussed in James D. Page's *Abnormal Psychology,* Ch. XI, pages 236 to 261 and Modi's *Medical Jurisprudence and Toxicology,* 14th ed., pages 349 to 401. Schizophrenia is a general term referring to a group of severe mental disorders marked by a splitting or disintegration, of the personality. The most striking clinical features include general psychological disharmony, emotional impoverishment, dilapidation of thought processes, absence of social rapport, delusions, hallucinations and peculiarities of conduct.

The question is whether the appellant is criminally responsible for the acts done on November 25, 1961. Section 84 of the Indian Penal Code says :—

> "Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."

To establish that the acts done are not offences under sec. 84 it must be proved clearly that at the time of the commission of the act the appellant by reason of unsoundness of mind was incapable of either knowing that the acts were either morally wrong or contrary to law. The question is whether the appellant was suffering from such incapacity at the time of the commission of the acts. On this question, the state of his mind before and after the crucial time is relevant. There is evidence of a medical character that between October 12, 1960 and January 12, 1961 he was suffering from schizophrenia. He was completely cured of this disease on January 12, 1961 when he resumed his normal duties. He had another attack of this disease in the middle of December 1961. The attack lasted till September 1962 when he was found to be normal again. But it is to be observed that the defence witnesses do not say that even during these two periods the appellant was incapable of discriminating between right and

wrong or of knowing the physical nature of the acts done by him. A

After the appellant was cured of the disease on January 12, 1961 he was found to be normal. He had a highly strung temperament and was easily excitable. But there is positive evidence that even at the moment of his greatest excitement he could distinguish between right and wrong. From January 12, upto B November 24, 1961 he attended his office and discharged his duties in a normal manner. On the morning of November 25, 1961 his mind was normal. He went to and from his office all alone. He wrote a sensible application asking for casual leave for one day. At 1.45 p.m. he stabbed and killed a child and soon thereafter he stabbed two other persons. On his arrest soon C after 2.45 p.m. he gave normal and intelligent answers to the investigating officers. Nothing abnormal in him was noticed till December 16, 1961.

The thing in favour of the appellant is that though he had a motive for attacking Baburam, no clear motive for attacking the child Leela or Parbati is discernible. But there is clear evi- D dence to show that he knew that his act of stabbing and killing was wrong and contrary to law. He concealed the weapon of offence. The knife could not be recovered in spite of searches. He bolted the front door of his house to prevent arrest. He then tried to run away by the back door. When an attempt was made to apprehend him he ran back to his house and bolted the door. He then tried to disperse the crowd by throwing brickbats from E the roof. His conduct immediately after the occurrence displays consciousness of his guilt. He knew the physical nature of stabbing. He knew that the stabbing would kill and maim his victims. On a comprehensive review of the entire evidence the two courts below concurrently found that the defence of insanity under sec. 84 was not made out. We are unable to say that the F verdict of the courts below is erroneous.

If a person by reason of unsoundness of mind is incapable of knowing the nature of the act or that he is doing what is either wrong or contrary to law he cannot be guilty of any criminal intent. Such a person lacks the requisite *mens rea* and is entitled to an acquittal. But it is not established in the present case that G the appellant was suffering from this incapacity. The general burden is on the prosecution to prove beyond reasonable doubt not only the *actus reus* but also the *mens rea*. The prosecution satisfactorily discharged this burden. The appellant was not insane at the time of the killing and stabbing and he knew the consequences of those acts. We must hold that he is criminally H responsible for the acts.

In the result, the appeal is dismissed.

R.K.P.S. *Appeal dismissed.*