

Ranjeet @ Sonu Vs. State

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Court : Delhi

Decided On : Sep-29-2014

Judge : Mukta Gupta

Appellant : Ranjeet @ Sonu

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment Reserved on: September 25, 2014 Judgment Delivered on: September 29, 2014 % + CRL.A.1068/2014 RANJEET @ SONU Represented by: Appellant Mr.Vivek Sood, Mr.Prem Prakash, Mr.Jaydeep Tandon, Ms.Janhavi Mahana, Advs. versus STATE Represented by: Respondent Ms.Aashaa Tiwari, APP for the State with Inspector Manoj Kumar. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA MUKTA GUPTA, J.

1. Ranjeet @ Sonu is aggrieved by the judgment dated April 03, 2014 convicting him for the offence punishable under Section 302 IPC and the order on sentence dated April 29, 2014 directing him to undergo Rigorous Imprisonment for life and to pay a fine of `50,000/- and in default of payment of fine to undergo simple imprisonment for six months.

2. Besides Ranjeet @ Sonu, Inderjeet Singh @ Indee, Chander Shekhar @ Pinku, Shyam Singh and Rattan Singh were also charge sheeted as accused for

conspiracy however, the learned Trial Court acquitted them and the leave to appeal being Cr.L.P.No.454/2014 filed by the State seeking their conviction has already been dismissed by this Court vide order dated July, 25, 2014.

3. Assailing the judgment, learned counsel for Ranjeet Singh submitted that admittedly the parties were inimical and a FIR under Section 307 was registered against complainant in the present FIR on the complaint of Ranjeet and others which was pending trial. The maker of the FIR Om Prakash, who stated to have seen the injured as well died before his deposition could be recorded in the Court. Raman, the brother of the deceased and son of Om Prakash has already been disbelieved by the learned Trial Court. As per the evidence of Neeraj, he had not seen the appellant firing at the deceased Manoj. Even accepting the version of Neeraj that he saw the appellant along with another person fleeing away from the spot after the incident, the same cannot be the sole ground for conviction. The weapon of offence allegedly recovered has not been exhibited in the present case. There is no report of the Ballistic Expert that the deformed bullet retrieved from the body of the deceased was fired from the pistol allegedly recovered from Ranjeet for which a case under Arms Act was registered. The version of Rinku PW-11, nephew of Om Prakash and cousin of Raman, Neeraj and the deceased contradicts the version of Neeraj.

4. No defence evidence was led by Ranjeet and his explanation in his statement recorded under Section 313 Cr.P.C. is:

On 06/04/2006 I was lifted from my house by Inspector Brahm Prakash Yadav from my house situated at 649, R.K.Puram Sector-7, New Delhi. Thereafter he took me to Dhaula Kuan Chowki and thereafter to P.S.Hauz Khas and lastly at Ambedkar Nagar police station and falsely implicated me in a case of arms act and there they fabricated a false disclosure statement and forcibly took my signature on the same. I have nothing to do with the present case. The police in connivance with the witnesses falsely implicated me in the present case as my father had lodged an FIR against the complainant and his sons under Section 308/34 IPC and since that time they were having enmity with me and my family.

5. The process of law was set into motion on receipt of DD No.30A at 6.41 PM at PS R.K.Puram from the PCR informing that someone has shot Manoj on the head at R.K.Puram, Sector-1 and he is being taken to Safdarjung Hospital. The second information received vide DDNo.31A at 6.50 PM informed that Manoj Kumar son of Om Prakash aged 26 years, r/o Ambedkar Basti, Jhuggi No.369, Sector-1, R.K.Puram who was got admitted by Neeraj on receiving gunshot injury has been declared brought dead.

6. SI Atthar Hussain reached the spot and recorded the statement of Om Prakash, since expired, vide Ex.PW-9/B on the basis of which FIR No.217/2006 was registered.

7. Om Prakash stated that he was working as sweeper in Sewa Sadan, R.K.Puram and was unwell for quite some time. On that day at about 6.15 PM he along with his son Manoj had gone to park near the toilets for stroll. When they reached N.K.R.Tailor, A-48, Ambedkar Basti, they met two boys on the corner, of which one was Ranjeet @ Sonu who was his brother-inlaws son and the other he did not know but could recognise if he came in front of them. They came towards them and Sonu stated that he had beaten his father and he would finish the chapter. On this the other boy asked him to take out the pistol and to kill him, Ranjeet @ Sonu took out the pistol and gave gunshot injury to his son Manoj on his right side back of the neck. Blood oozed out and Manoj fell down. He shouted and saw that his son Neeraj and his nephew Rinku were coming when Sonu and his friend ran away from the spot after threatening him. Om Prakash with the help of Neeraj and Rinku laid Manoj near the gate of the toilet and in the meantime his wife also came and they all took him to Safdarjung Hospital where he was declared brought dead.

8. The post-mortem of Manoj was performed by Dr.Gaurav Vinod Jain PW-25, who noted the following injuries:

A firearm entry wound 1 x 1 cm was present on the right side of occipital area with singeing of hair and charring of skin. No gas tearing and no abrasion collar was present. The injury had gone through the occipital bone and the right lobe of cerebellum. It had further gone through the temporal bone and the right middle ear

and made an exit through the facial bones of the right side. The injury had stopped in the subcutaneous tissues beneath the right eye from where a deformed jacketed bullet was recovered. A piece of the jacket was also recovered at the point of entry in the occipital bone. On internal examination, the occipital bone showed an entry hole on the right side. The cerebellum and the left parietal lobe showed damage due to expansive forces. Internal organs were all congested. Rest was unremarkable.

9. Dr.Gaurav Vinod Jain exhibited the post-mortem report vide Ex.PW- 25/A and opined cause of death was head injury due to firearm projectile fired from a close range. In his cross-examination he clarified that the weapon of offence was not produced before him and he could not tell about the kind of weapon used. The two material witnesses in the present case who deposed in the case against Ranjeet are Neeraj PW-3 and Rinku, PW-11 the brother and cousin of the deceased.

10. Neeraj PW-3 in his examination-in-chief deposed that on April 06, 2006 at about 6.05 PM he along with his relative Rinku was present towards CRPF when someone told them that his brother Raman was searching him, when he along with Rinku were coming from in front of the gate of toilet, he saw that his brother Manoj and father were coming and in the meantime Ranjeet @ Sonu put the pistol on the neck of Manoj and fired gunshot as a result of which his brother sustained injuries and fell down. His father raised alarm. Ranjeet @ Sonu with his associate ran away. They chased them for some distance. Thereafter, he along with his father and Rinku lifted Manoj and put him to the gate of the toilet from where he was taken to the hospital.

11. In the cross-examination Neeraj deposed that his house was adjacent to the said public toilet. He had seen Ranjeet and his companion about half an hour prior to the incident and he heard a noise just like Patakha and when he came out from his house he saw Ranjeet @ Sonu and his companion running away. He and Rinku chased the accused but could not apprehend them. From the cross-examination of this witness it is evident that he did not see Ranjeet inflicting the gunshot injury to Manoj and came out of the house after hearing the noise of a patakha. Only one gunshot injury was given and it is only after the incident that

this witness saw Ranjeet and his companion running away from the spot.

12. Rinku PW-11 deposed that on April 06, 2006 he along with his brother Neeraj was present near CRPF block side. One boy informed that their brother Raman was searching them and when they were coming from the side of toilets towards the basti they saw Om Prakash and Manoj coming. In the meantime Ranjeet @ Sonu came out of the gali and two-three boys were with him. Ranjeet fired a shot on the back side of neck of Manoj. Seeing this they ran behind Ranjeet but could not apprehend him. Thereafter they picked up Manoj and later took him to the hospital. In the cross-examination this witness could not give the description of the other person with Ranjeet and the other details.

13. There is an apparent contradiction in the testimony of Neeraj and Rinku. Though, initially both of them in their examination-in-chief stated that they had witnessed the incident however, Neeraj who was along with Rinku stated that he came out of the house after hearing the patakha noise. It is thus clear from the evidence of these two witnesses that they have not witnessed the incident and only came out on hearing the gunshot fire as their house was nearby. Further Neeraj deposed that there was only one person with Ranjeet whereas Rinku stated that there were two-three persons along with Ranjeet.

14. Unfortunately before Om Prakash could be examined in the Court he passed away and thus his deposition could not be recorded. His statement under Section 154 Cr.P.C on the basis of which FIR was registered is not substantive evidence and could have been used only for the purpose of corroborating or contradicting Om Prakash in case he had appeared in the witness box. See AIR 1960 SC391 The State of Bombay vs. Ruyy Mistry & Anr.

15. PW-27 Braham Prakash Yadav deposed that on April 10, 2006 he received a call from Special Staff regarding arrest of Ranjeet in FIR No.221/2006 under Section 25 Arms Act, PS Ambedkar Nagar wherein Ranjeet disclosed his involvement in the present case. After seeking necessary permissions from the concerned Court Ranjeet was arrested in this case and the fire arm recovered from Ranjeet was sent for examination. As per the FSL report Ex.PX of the Ballistic Division the deformed bullet marked Ex.EB1 though was a bullet of

8mm/.315 inches cartridge however, there was no opinion rendered that the bullet was fired from the weapon of offence recovered from Ranjeet.

16. Admittedly there is enmity between the parties and Neeraj PW-3 in his cross-examination admitted that they were accused in a case under Section 307 IPC in which Ranjeet and others were the complainant. Enmity is a double edged weapon and thus the evidence of eye witnesses is required to be scrutinised with caution.

17. In the present case, the only evidence against Ranjeet is that immediately after the incident he was seen running away from the spot by PW-3 Neeraj and PW-11 Rinku wherein also there is a contradiction as according to Neeraj, Ranjeet was accompanied by one person whereas as per Rinku he was accompanied by two-three persons. Admittedly Ranjeet was living near the house of PW-3 and the deceased itself and in our opinion this solitary circumstance of his running away from the place of incident would not be sufficient to hold that the offence of murder stands proved beyond reasonable doubt against the appellants. The position with regard to the circumstance of running away from the spot was considered by the Supreme Court in its decision (1974) 3 SCC668Naseem Ahmed vs. Delhi Administration:

10. This is a case of circumstantial evidence and it is therefore necessary to find whether the circumstances on which prosecution relies are capable of supporting the sole inference that the appellant is guilty of the crime of which he is charged. The circumstances, in the first place, have to be established by the prosecution by clear and cogent evidence and those circumstances must not be consistent with the innocence of the accused. For determining whether the circumstances established on the evidence raise but one inference consistent with the guilt of the accused, regard must be had to the totality of the circumstances. Individual circumstances considered in isolation and divorced from the context of the over-all picture emerging from a consideration of the diverse circumstances and their conjoint effect may by themselves appear innocuous. It is only when the various circumstances are considered conjointly that it becomes possible to understand and appreciate their true effect. If a person is seen running away on the heels of a

murder, the explanation that he was fleeing in panic is apparently not irrational. Bloodstains on the clothes can be attributed plausibly to a bleeding nose. Even the possession of a weapon like a knife can be explained by citing a variety of acceptable answers. But such circumstances cannot be considered in water-tight compartments. If a person is found running away from the scene of murder with blood-stained clothes and a knife in his hand, it would in a proper context, be consistent with the rule of circumstantial evidence to hold that he had committed the murder.

18. We are unable to uphold the conviction of Ranjeet on the solitary circumstance of running away from the place of occurrence soon after the incident. Consequently, the conviction of the appellant for offence under Section 302 IPC and the order on sentence are set aside. The appeal is disposed of.

19. The appellant who is in custody be released forthwith if not required in any other case.

20. T.C.R. be returned.

21. Two copies of the judgment be sent to the Superintendent Central Jail Tihar one for his record and the other to be handed over to the appellant. (MUKTA GUPTA) JUDGE (PRADEEP NANDRAJOG) JUDGE SEPTEMBER29 2014/vn

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