

Man Mohan Vs. State

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Court : Delhi

Decided On : Sep-29-2014

Judge : Pradeep Nandrajog

Appellant : Man Mohan

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Judgment Reserved on: September 19, 2014 Judgment Delivered on : September 29, 2014 + CRL.A. 1010/2014 MAN MOHAN Represented by: Appellant Ms.Nandita Rao and Ms.Srilina Rao, Advocates versus STATE Represented by: Respondent Mr.Varun Goswami, APP SI Somil Sharma, PS Nand Nagri CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA PRADEEP NANDRAJOG, J.

1. At 5:40 PM on June 19, 2007 the duty officer at PS Nand Nagri noted information in daily diary No.21A, Ex.PW-13/A, that one Chiranji Lal residing at C-2/329, Nand Nagri has died and his elder son was accusing the younger son of the deceased to have murdered their father. Copy of DD No.21A was entrusted for investigation to ASI Sona Ram PW-13, who accompanied by Ct.Rajender Kumar PW-10 reached C-2/329, Nand Nagri. They met Ram Avtar PW-2, a son of the deceased, who told them that the appellant Manmohan was his younger brother and was involved in a civil litigation with their father. Ram Avtar suspected hand of

Manmohan in the death of their father. Thus, ASI Sona Ram seized Chiranji Lals dead body which was covered with a sheet and was placed on ice outside the house. The body was sent for post mortem to the mortuary of GTB Hospital.

2. Next day morning on June 20, 2007 Dr.Arvind Kumar PW-8 conducted the post mortem and noted the following four external injuries, all of which were ante mortem:

1. Superficial lacerated wound of size 0.6 cm x 0.1 cm x 0.1 cm present on left side of face on mandible, 7 cm left to midline and 7 cm below and medial to left ear.

2. Linear reddish abrasion of size 0.4 x 0.1 cm on left aspect of neck, 1.5 cm left to midline and 6 cm above sterna notch.

3. Reddish abrasion, linear, curved of size 1.7 cm x 1.3 cm present on left aspect of neck, 0.7 cm from midline and 3 cm above sterna notch.

4. Reddish abrasion liner of six 1.3 cm x 0.2 cm present over right aspect of neck, 2 cm below right angle of mandible and 8 cm right to midline.

3. Internal injuries noted were Haemorrhage in the soft tissue of neck and neck muscle around hyoid and thyroid cartilage. Left greater cornu of hyoid bone having inward fracture with extravasation of blood into soft tissue. Right and left upper horn fractured with extravasation of blood into soft tissue. Petechial haemorrhage present over epiglottis and vocal cord. The tracheal wall was oedematous and congested with petechial haemorrhagic. Lungs were congested and petechial haemorrhage was present over interiobar surface and base of lung. The stomach was empty. The liver, spleen and kidneys were congested.

4. It is apparent that death was homicidal. Cause of death opined by Dr.Arvind Kumar was asphyxia due to manual strangulation.

5. It is the case of the prosecution that Chiranji Lal was the owner of House No.C-2/329, Nand Nagri on the first floor whereof he was residing alone and the ground floor was in the possession of his son Manmohan the appellant. Manmohans wife

having died he married a second time, which was probably not acceptable to Manmohans father and brothers. This was the cause of tension between the father and son. Relations became so acrimonious that Chiranji Lal had to seek eviction of Manmohan and had obtained an order of eviction. Chiranji Lal used to take his meals outside. The father and son used to have frequent quarrels. Faced with eviction, Manmohan strangled his father to death.

6. The prosecution has sought to prove its case through the testimony of Ran Singh PW-1, Sanjeev Kumar PW-3, Babu Lal PW-4 and Kesari PW-7, the four persons in the neighbourhood, and Ram Avtar PW-2, Laxmi Narayan PW-5 and Krishan Avtar PW-9, the three sons of Chiranji Lal. We note that one son Nand Kishore has not been examined.

7. Besides, three police officers HC Rajender Kumar PW-10, who was holding the rank of a constable when the incident took place, ASI Sona Ram PW-13 and HC Mohar Pal Singh PW-18 have also been examined ostensibly to prove what they saw at the scene of the crime soon after the incident.

8. The testimony of HC Mohar Pal Singh PW-18, ASI Sona Ram PW-13 and HC Rajender Kumar PW-10 would bring out that on learning about Chiranji Lal having died, HC Mohar Pal Singh being posted at the PCR and the other two police officers receiving information when DD No.21A was entrusted to them, the three saw Chiranji Lals dead body lying on ice slabs and covered with a sheet in front of House No.C-2/329. The photographs Ex.PW-13/B1 to Ex.PW-13/B4 taken by the crime team would graphically bring out as aforesaid.

9. It is apparent that such family member who was present in the house had put Chiranji Lals dead body on ice slabs after wrapping the body in a sheet, as is the usual practice in India till the body is cremated because of the tropical conditions in India and hence early decomposition of the body, more so if the month is of June.

10. Dr.Anand Prakash PW-6, a quack if we may say so, who calls himself a Registered Medical Practitioner, was contacted by Meenu Gupta, the second wife of Manmohan. As deposed to by him he had checked Chiranji Lal and found him

to have died. As per Dr.Anand Prakash when he went to Chiranji Lals house at the asking of Meenu he saw Chiranji Lal lying dead on the first floor. It is thus apparent that the body of Chiranji Lal had been brought down to the ground floor by somebody.

11. As per Dr.Anand Prakash he had not observed any injury on the face, neck or any other part of the body of Chiranji Lal.

12. Ran Singh PW-1, Sanjeev Kumar PW-3, Babu Lal PW-4 and Kesari PW-7 did not support the case of the prosecution concerning the four being witnessed to the inimical relationship between Chiranji Lal and his son Manmohan, and there used to be frequent quarrels between the two, but relevant would it be to note that the testimony of the four witnesses would bring out that whereas Chiranji Lal was residing on the first floor, Manmohan was residing on the ground floor and that there was a dispute between the father and son concerning property.

13. Since an issue needs to be decided whether any other son was residing in the house in question, we note that Ran Singh PW-1, during cross examination by the accused said that Krishan and Nandu, the sons of the deceased were also residing in the house when Chiranji Lal died.

14. Ram Avtar PW-2, at whose instance ASI Sona Ram had sent the dead body of Chiranji Lal for post mortem deposed of the extremely inimical relationship between his father and Manmohan. As per him he had noticed redness on the neck of his father and this raised his eyebrows. It was he who gave photocopy of the judgment Ex.PW-2/E passed by Sh.Sanjay Garg, ASJ, Delhi in favour of Chiranji Lal and against Manmohan to the Investigating Officer.

15. Being relevant for the discussion of the evidence as to who all were residing in the house of Chiranji Lal we may note that at one stage during cross examination Ram Avtar said that his younger brother Krishan Avtar was also residing with his father, a statement made by him during cross examination on July 20, 2011, which was contradicted by him during further cross examination on October 12, 2011 when he stated that neither Krishan Avtar nor Nand Kishore were living with his father.

16. Laxmi Narayan PW-5 deposed that he knew nothing of the incident, but relevant would it be to note that as per his testimony Krishan Avtar and Nand Kishore were also residing in the same house.

17. Krishan Avtar PW-9 also deposed that he knew nothing of the incident, but relevant would it be to note that as per his testimony he was not residing with his father.

18. The judgment Ex.PW-2/E pronounced by Sh.Sanjay Garg, ADJ.

Delhi is in RCA No.19/2006 and has been pronounced on May 26, 2007. It has reversed a decision dated March 25, 2006 passed by the learned Trial Judge. Suit filed by Chiranji Lal against his son Manmohan and daughter-in-law Meenu for possession of the ground floor of C-2/329, Nand Nagri Delhi has been decreed.

19. We highlight that the day when Chiranji Lal was found dead is June 19, 2007 i.e. within a span of 24 days of Chiranji Lal obtaining a decree against his son Manmohan.

20. Evidence would bring out that Chiranji Lals death was neither natural nor accidental nor suicidal. It was homicidal. The testimony of Dr.Anand Prakash PW-6 would bring out that he saw Chiranji Lal dead on the first floor when Meenu, wife of the appellant called him to the house to examine Chiranji Lal.

21. The testimony of HC Rajender Kumar PW-10, ASI Sona Ram PW-13 and HC Mohar Par Singh PW-18 would bring out that by the time the police reached the house of the deceased his dead body had been shifted to the ground floor and after being wrapped in a sheet was placed on ice slabs. Obviously, a family member had brought the dead body down.

22. The moot point of discussion has therefore to be : who was present in the house when Chiranji Lal was murdered?.

23. Learned counsel for the appellant would urge as per Ran Singh PW-1 Krishan and Nandu, sons of the deceased were also residing in the house with Chiranji Lal. As per Ram Avtar PW-2 Krishan was residing in the house with the father, a

fact stated by him during cross examination on July 20, 2011 but contradicted by him when further cross examination was conducted on October 12, 2011. As per Laxmi Narayan PW-5 Krishan Avtar and Nand Kishore were also residing with Chiranji Lal. As per Krishan Avtar PW-9 he was not residing with his father.

24. It is apparent that Ran Singh, who has turned hostile on other material points, has tried to introduce residence of Krishan and Nand Kishore in the house with their father to help the appellant. Ram Avtar PW-2 appears to have slipped up at one stage by admitting that Krishan Avtar was also residing in the same house but later corrected himself. Laxmi Narayan PW5 who is also a hostile witness has tried to help the appellant by introducing residence of Krishan Avtar and Nand Kishore in the house. Krishan Avtar has categorically deposed that he was not residing in the house. It assumes importance that to neither three police officers who first reach the house was any suggestion given that apart from the appellant either Krishan Avtar or Nand Kishore were also residing in the house with their father.

25. It is apparent that the appellant along with his wife were residing on the ground floor and Chiranji Lal was residing on the first floor. Sanjeev Kumar PW-3 has categorically deposed that Chiranji Lal was living on the first floor and Manmohan the appellant was living on the ground floor and that Chiranji Lal used to purchase household articles from him. Babu Lal PW-4 has also categorically deposed that Chiranji Lal was living on the first floor and Manmohan was residing on the ground floor. No suggestions have been given to PW-3 and PW-4 that Krishan Avtar and/or Nand Kishore were residing with their father.

26. Thus the prosecution has successfully established that apart from Chiranji Lal who used to reside on the first floor of the building, only Manmohan and his wife Meenu were the other inhabitants of the building, residing on the ground floor. In this connection we need to notice question No.7, when incriminating circumstances were put to Manmohan and his answer. To the incriminating circumstance being the testimony of ASI Sona Ram PW-13 that whereas Manmohan and his family was residing on the ground floor, Chiranji Lal was residing on the first floor, the appellant replied in the affirmative and did not claim that apart from Chiranji Lal any other person was residing on the first floor with

Chiranji Lal.

27. Manmohan thus has to explain how did his father suffer the injuries which resulted in his father dying.

28. That Dr.Anand Prakash, the registered medical practitioner whom Meenu had called home to check Chiranji Lal claims not to have seen any injury marks on the body of Chiranji Lal when he medically examined him and pronounced him dead is neither here nor there firstly for the reason Dr.Anand Prakash if, we may use the expression : a quack; and secondly he may have simply checked the pulse of Chiranji Lal and finding none, pronounced him dead. He does not say in his evidence that he thoroughly checked up the body of Chiranji Lal to give an opinion as to what was the cause of Chiranji Lals death.

29. It assumes importance that relationship between Chiranji Lal and Manmohan were highly inimical and as recent as on May 26, 2007 (the date of the incident being June 19, 2007) Chiranji Lal had obtained a decree for possession against Manmohan. Faced with a loss of roof over his head, Manmohan had a very strong motive to dispatch his father to the world beyond. There used to be frequent quarrels between the father and the son. The proof of a very strong motive for Manmohan to kill his father gives a very high incriminating value to the motive, which otherwise is treated as a weak kind of evidence because of the fact that presumptive logic (and inference of the crime based on proof of motive is a presumptive logic based conclusion) is weak logic.

30. The trinity of circumstances of Manmohan having a very strong motive, being the only other occupant of the building apart from his father and being present in the house when his father died and he having attempted to pass off his fathers death as a natural death are sufficient to unerringly point the finger of guilt at Manmohan because he has failed to render a satisfactory explanation of how his father died.

31. The appeal is dismissed.

32. TCR be returned. (PRADEEP NANDRAJOG) JUDGE (MUKTA GUPTA)
JUDGE SEPTEMBER29 2014 mamta

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