SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Ravi Kumar Meena Vs. State

Ravi Kumar Meena Vs. State

SooperKanoon Citation : sooperkanoon.com/1171234

Court : Delhi

Decided On : Sep-29-2014

Judge : Pradeep Nandrajog

Appellant : Ravi Kumar Meena

Respondent : State

Judgement :

$~5 & 6 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: September 29, 2014 + CRL.A. 408/2014 RAVI KUMAR MEENA Represented by: ..... Appellant Mr.Sumeet Verma, Advocate with Mr.Amit Kala, Advocate versus STATE Represented by: ..... Respondent Mr.Lovkesh Sawhney, APP CRL.A. 1075/2014 STATE Represented by: ..... Appellant Mr.Lovkesh Sawhney, APP versus RAVI KUMAR MEENA Represented by: ..... Respondent Mr.Sumeet Verma, Advocate with Mr.Amit Kala, Advocate CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA PRADEEP NANDRAJOG, J.

(Oral) 1. At about 8:50 PM on March 23, 2009, the duty officer at PS Anand Parbat recorded information conveyed by L/Ct.Anuradha from the Police Control Room that ringing up the number 100, information was given that at Street No.8 Nehru Nagar, Anand Parbat during a quarrel stabbing has taken place.

2. Recorded in the daily diary at number 74B, Ex.PW-11/A, copy of the daily diary entry was handed over by the duty officer to SI Sultan Singh PW-11, who accompanied by Ct.Pawan PW-6, left the police station and reached street No.8 and learnt that stabbing incident had taken place on the street outside house No.284, Nehru Nagar, Anand Parbat. One Beni Prasad @ Guddu PW-18 met the two police officers at the spot and handed over the appellant Ravi Kumar Meena and produced the knife Ex.P-1, informing the two police officers that two persons named Santosh and Suraj Bhan had apprehended the appellant who was flashing a knife.

3. In the meanwhile Dhrupad PW-15, uncle of the person who was stabbed - Anil, had taken Anil to Hindu Rao Hospital where Dr.Anamica Dhawan recorded MLC Ex.PW-20/A concerning Anil. She recorded therein that Dhrupad had brought Anil to the emergency of Hindu Rao Hospital at 9.30 P.M. on March 23, 2009. Anil was dead by the time he was brought to the hospital.

4. The duty officer at Hindu Rao Hospital conveyed information to PS Anand Parbat that at 10.00 P.M. Anil s/o Rampati, resident of 284/Q, Gali No.8, Nehru Nagar had been brought by his uncle Dhrupad to the emergency of the hospital where Anil was declared dead. The same was entered in the daily diary vide DD No.77B, Ex.PW-2/D by H.Ct.Ranbir Singh PW-2, the duty officer at P.S. Anand Parbat.

5. DD No.77B was handed over to SI Zora Singh PW-12 for investigation. Accompanied by Ct.Yoginder PW-8, he reached Hindu Rao Hospital where he met Santosh PW-3, Adalat PW-17 and Dhrupad PW-15. The three claimed to be the eye witness. He recorded Santoshs statement Ex.PW-3/A and got recorded the FIR Ex.PW-2/A.

6. At the trial SI Sultan Singh PW-11 and Ct.Pawan PW-6 proved that Beni Prasad @ Guddu PW-18 had handed over Ravi Kumar Meena to them and had produced the knife Ex.P-1. Beni Prasad @ Guddu PW-18 has corroborated the said two police officers and thus we have proof that the appellant was apprehended at the spot and the knife Ex.P-1 was recovered from him.

7. The sketch Ex.PW-21/B of the knife would show that it is an ordinary kitchen knife, albeit with a slightly thicker base of the blade. The length of the blade is 10.5 cm i.e. just a little over four inches. It has a handle of 10 cm length. At base of the blade the width is 4.5 cm and it tapers to form a pointed point at the tip.

8. No use noting in detail the testimony of Suraj Bhan PW-10, the hostile eye witness, Santosh Kumar PW-3, Dhrupad Ram PW-15, Adalat Ram PW-17 and Beni Prashad PW-15 for the reason after going through their testimony learned counsel for the appellant concedes that the prosecution has proved that the appellant had stabbed the deceased Anil and was caught at the spot and given a beating evidenced by appellants MLC Ex.PW-22/F drawn up at Dr.Ram Manohar Lohia Hospital at 9:45 PM on the date of the incident. The appellant had a clear lacerated wound in the occipital region and a second on the back of the scalp; injuries which he received when he was beaten by the public.

9. The testimony of the eye witnesses would bring out that on the exhortation of Gopal Singh PW-14 who was in the company of the appellant, when both were collecting payments for the cable T.V. services provided by Gopal Singh, the deceased happened to pass by and as his elbow struck the receipt book in appellants hand the receipt book fell on the ground. Appellant abused Anil who apologized. Gopal exhorted nikaal chaku or maar. Ravi took out the knife Ex.P-1 and gave two stab wounds on the person of Anil, unfortunately in the chest and the stomach region resulting in death of Anil because the first stab pierced the pericardial sac and punctured the right ventricle of the heart.

10. A word needs to be spoken about Gopal being cited as a witness of the prosecution.

11. Notwithstanding in Santoshs statement Ex.PW-3/A, there being a reference to two persons, the Investigating Officer did not investigate who that other person was. Only appellant was sent for trial.

12. But after Gopal had been examined as PW-14, the vigilant Additional Sessions Judge detected that the eye witnesses were speaking of appellant being accomplice of Gopal and gave Gopals role in the commission of the offence and

thus by an order dated April 11, 2012 it was directed that Gopal should be arrested and charged. By that time evidence had been recorded in the instant case, thus trial of Gopal was separated. The explanation given by the Investigating Officer that nobody named Gopal, has been negated by the learned Judge noting that the Investigating Officer could give no justification as to why he did not try to find out who was the second person when in the statement Ex.PW-3/A, Santosh Kumar had at the very first moment when the police met him spoken of two persons.

13. Be that as it may, as regards the appellant there is irrefutable evidence that it was he, who on the exhortation of Gopal, stabbed Anil.

14. The question would be : Whether the act of the appellant constitutes the offence of murder or culpable homicide not amounting to murder and punishable under Section 304 Part I IPC.

15. In the appeal filed by the State it is urged that the offence is murder. In the appeal filed by Gopal, he claims that the offence is of culpable homicide not amounting to murder.

16. From the testimony of the eye witnesses it emerges that there was no previous enmity. The appellant did not act with premeditation. It happened at the spur of the moment. As Anil jostled past the appellant, and as his elbow struck the hand of the appellant, the receipt book in the hand of the appellant fell down. The appellant abused Anil, who apologized. But, on Gopals - the employers exhortation, the appellant who was carrying a kitchen knife stabbed Anil. The argument of learned counsel for the State that why was the appellant carrying a knife, other than with the intention of using it to kill, needs to be noted and rejected for the reason the testimony of the witnesses brings out that the appellant and Gopal were collecting money from those who had taken cable connections from Gopal and it is not unusual that customers make grievances of the images on the television not being clear and since money has to be collected, the person concerned - for the purposes of cleaning and chiselling here and there the cables, carrying a knife, a pier or any other instrument/implement.

17. Both appeals fail and are dismissed.

18. Appellants conviction for the offence of culpable homicide not amounting to murder and the sentence imposed to undergo RI for 10 years and pay fine in sum of `10,000/- is confirmed.

19. Copy of this order be sent to the Superintendent Central Jail Tihar for his record and to be supplied to Ravi Kumar.

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

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com