

Shahjahan and Others Vs. State

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Court : Delhi

Decided On : Nov-20-2015

Judge : Sanjiv Khanna&R.K. Gauba

Appeal No. : CRL.A. No. 300 of 2015

Appellant : Shahjahan and Others

Respondent : State

Judgement :

Sanjiv Khanna, J.

1. By the judgment under challenge dated 11th September, 2014, the appellants Shahjahan, Sikandar and Rashid have been convicted (i) under Section 302 read with Section 34 IPC of the Indian Penal Code, 1860 (for short, IPC) for murder of Aziz-ul-Hassan @ Munna and Reshma; (ii) under section 307 read with Section 34 IPC for having caused stab injuries on Nadeem, Musharraf, Sharafat and Ishrat Ali; and (iii) under section 452 read with Section 34 IPC for having trespassed in house No.2066, Gali No.21, New Mustafabad, Delhi, having made preparation for causing hurt and assaulting Musharraf and others.

2. By the impugned order on sentence dated 20.9.2014, the three appellants have been sentenced to life imprisonment, fine of Rs.20,000/- and in default to undergo simple imprisonment for six months for the offence under Section 302 read with Section 34 IPC. It is directed that out of the fine amount, Rs.10,000/- will be paid to

the victims as compensation. For the offence under Section 307 the three appellants have been sentenced to imprisonment for life, and for the offence under Section 452 read with Section 34 IPC, the three appellants have been sentenced to undergo rigorous imprisonment for five years, to pay fine of Rs.10,000/- and in default to undergo simple imprisonment for a period of three months. It is directed that out of the fine amount, Rs.5,000/- will be paid to the victims as compensation. The sentences would run concurrently and Section 428 of the Code of Criminal Procedure, 1973 (Cr PC for short) would apply.

3. The prosecution version as ensconced in the impugned judgment is predicated on the testimonies of the six eye witnesses, namely, Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4), Sharafat Ali (PW-5) and Mohd. Zakir (PW-6). Out of the said six witnesses, Musharraf (PW-1), Nadeem (PW-2), Ishrat Ali (PW-4) and Sharafat Ali (PW-5) had suffered injuries in the said occurrence. These four witnesses, Tabassum (PW-3) and Mukeem (PW-8) have also deposed as to the motive and the reason for the trespass and assault. To avoid repetition and prolixity, we are not individually referring to the testimonies of PW-1 to PW-5 mentioned above, but would like to reproduce in brief their versions which are substantially in seriatim on most material aspects. For the reasons set out below, we have separately examined testimony of Mohd. Zakir (PW-6).

4. Musharraf (PW-1) in the late evening after taking dinner on 11.6.2005 had gone for a stroll towards Kabristan. Nisar (who was charge-sheeted, but died during the pendency of the trial) met him and had hurled abuses, and thereafter scuffle followed. Sharafat Ali (PW-5) and deceased Reshma, parents of Musharraf having learnt about the scrimmage reached the spot and intervened. Musharraf (PW-1) returned home. Nisar (since deceased) had then threatened that Musharraf (PW-1) would be taught a lesson. Shortly thereafter, the three appellants and Nisar (since deceased) came to the residence of Musharraf at 2066, Gali No.21, New Mustafabad, Delhi. All of them, except Shahjahan, were armed with knives. They entered the residence and started beating Musharraf and other family members. Musharraf and others were dragged outside. In the attack fatal stab wounds were inflicted on Reshma and Musharraf (PW-1) and Nadeem (PW-2), Ishrat Ali (PW-4) and Sharafat Ali (PW-5) had also sustained injuries. Aziz-ul Hassan @ Munna, a

neighbour who had tried to intervene and save them was also not spared and suffered a fatal blow.

5. Musharraf (PW-1), no doubt was cross-examined by the public prosecutor on certain points, is categorical in identifying the three appellants as the perpetrators. His presence at the spot is affirmed and gets corroborated as he had suffered injuries and was taken to the hospital with Nadeem (PW-2) by ASI Hari Singh (PW-23), In-charge of PCR Van B-38, who had about 9:00 /9:30 p.m. received information regarding a brawl and chakubazi (use of knife). Musharraf (PW-1) and Nadeem (PW-2) were examined in the hospital at about 10:00 p.m and their MLCs marked as Ex.PW-11/C and Ex.PW-11/B, were proved by Dr. M. Dass (PW-11).

6. Nadeem (PW-2) has testified that he had seen his brother Musharraf (PW-1) and Nisar quarrelling near Kabristan and had informed his parents at home. Musharraf (PW-1) was brought back home and, at that time, Nisar (since deceased) had threatened that they would teach them a lesson. Thereafter, at about 8.30 P.M., Nisar (since deceased), his brothers Sikandar and Rashid came to the house armed with knives. Shahjahan was also with them and had shouted that no one would be spared. Rashid had caused injuries to his father Sharafat Ali (PW-5) and Sikandar had caused injuries to his mother Reshma (deceased) and Ishrat Ali (PW-4). Nisar (since deceased) and Sikandar had caused injuries to Musharraf (PW-1). Their landlord Aziz-ul-Hassan, who had come to their rescue, was given a knife blow by Nisar (since deceased). The perpetrators had thereafter left. After some time, police came and took them to GTB Hospital.

7. Tabassum (PW-3) has deposed that parents of Musharraf (PW-1) had brought him back and, thereafter, the four accused i.e. the three appellants and Nisar (since deceased) broke the door and dragged them to the street. Sikandar, Rashid and Nisar (since deceased) were armed with knives and had caused stab injuries. In the examination-in-chief recorded on 4th August, 2008, Tabassum (PW-3) has deposed that Rashid had stabbed Sharafat Ali (PW-1) and Sikandar had stabbed both Sharafat Ali (PW-1) and Nadeem (PW-2). Nisar (since deceased) had stabbed Reshma and Aziz-ul-Hassan @ Munna, but on the same date itself, on being cross-examined by Additional Public Prosecutor, she clarified that Sikandar

had stabbed Ishrat Ali and then Reshma, when she (Reshma) had tried to intervene. The earlier version given by Tabassum (PW-3) that Sikandar had stabbed Sharafat Ali (PW-5) and Nadeem (PW-2) was incorrect and was made due to confusion. Musharraf (PW-1) was stabbed by Sikandar and Nadeem (PW-2) was stabbed by Nisar (since deceased).

8. Ishrat Ali (PW-4) in his examination-in-chief recorded on 4th August, 2008 had initially named and identified the appellant-Shahjahan and had stated that he had seen three men (males) with her. PW-4 professed that he did not know anything else about the case as he was young, but as far as he remembered, appellant-Sikandar had stabbed him. Ishrat Ali (PW-4) was cross-examined by the Additional Public Prosecutor on the same day, but the said witness expressed ignorance asserting that he did not remember what he had stated to the police. However, in his cross-examination on 30th April, 2009, PW-4 was empathetic that the three appellants and Nisar (as deceased) had trespassed into their house, committed violence and had given knife blows. PW-4 avowed that their neighbour, Aziz-ul-Hasan @ Munna had tried to intervene; as a result, he too was stabbed. Presence of Ishrat Ali (PW-4) and the injuries suffered by him at the time of the occurrence gets confirmation from the testimony of Dr. M. Dass (PW-11), who has proved the MLC marked Ex.PW-11/E, which was recorded at 10 P.M. The MLC was prepared by Dr. Alok who had left the hospital and his whereabouts were not known. Dr. Alok was working under the supervision of Dr. M. Dass (PW-11) and the handwriting and signature were recognized and identified by PW-11.

9. Sharafat Ali (PW-5) has elaborated on the first altercation in which Musharraf (PW-1) was accosted while walking near the kabristan. On learning about the said altercation, Sharafat Ali (PW-5) and his wife, deceased Reshma had proceeded to kabristan, intervened and, had brought Musharraf (PW-1) back home. At that time, Nisar (since deceased) had threatened that they would teach Musharraf (PW-1) a lesson. Soon thereafter, Nisar (since deceased) and Sikandar came to their residence and knocked at the door. They had given knife blows to Sharafat Ali (PW-5) and his wife Reshma, who had died. Aziz-ul-Hassan @ Munna, the neighbour who after hearing a noise had come out and intervened, was also stabbed. In the examination-in-chief recorded on 30th April, 2009 Sharafat Ali

(PW-5) did not name and depose as to the involvement of Shahjahan and Rashid, having come to their house or they were participants in the violence in which the stab injuries were inflicted. Sharafat Ali (PW-5) however in his examination on 1st May, 2009 explicated and confessed that threats had been extended to him by mother in law of his daughter Mukeem, not to depose against all the accused (four in number) facing trial or they would kill their entire family. Hesitatingly and under compulsion, PW-5 had earlier not named Shahjahan and Rashid, as he was scared. PW-5 affirmed that Shahjahan and Rashid were also present at the time of violence. He attributed specific words to Shahjahan, which have been noticed below. PW-5 affirmed that he was taken to GTB Hospital by the police and given stitches on the neck. His sons, Nadeem (PW-2), Musharraf (PW-1) and Ishrat Ali (PW-4), who were injured, were also given medical aid. His neighbour, Aziz-ul-Hassan @ Munna and his wife Reshma had died, as a result of injuries perpetrated in the violence. In his cross-examination, Sharafat Ali (PW-5) testified that a number of persons had witnessed/seen the incident, but they were scared and only Aziz-ul-Hassan @ Munna had intervened.

10. Presence of Sharafat Ali (PW-5) at the spot and the injuries suffered by him is affirmed and corroborated from the testimony of ASI Madan Singh (PW-30), then a Head Constable attached to PCR Van Baker No. 37 who had removed Sharafat Ali (PW-5) to GTB Hospital where he was examined by Dr. M. Dass (PW-11) at about 10 P.M vide MLC marked Ex.PW11/D.

11. When we read the testimonies of Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4) and Sharafat Ali (PW-5), we must appreciate the societal and fraternity pressures and compulsions that had made them vulnerable and susceptible. This is clearly palpable and their predicament is perceptible. Sharafat Ali (PW-5), the father was candid and has adverted to threats by mother-in-law of his daughter Mukeem, i.e., sister of Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3) and Ishrat Ali (PW-4). Mukeem was married to one Tahir Khan. She has deposed as PW-8. She was closely related to Akil and his wife Shahjahan (the appellant-accused) as they were her jeth and jethani. It is fathomable and discernible from the testimonies of Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4) and Sharafat Ali (PW-5) that there

were differences between Mukeem, Shahjahan and her family, which had affected Mukeem's marital life. Mukeem (PW-8) has oscillated, when she declared that she had not seen her mother Reshma being murdered, but had heard from neighbours that her in-laws were the perpetrators, who had murdered her mother and Aziz-ul-Hassan @ Munna. She has accepted that Musharraf (PW-1), Ishrat Ali (PW-4), Nadeem (PW-2) and her father Sharafat Ali (PW-5) were injured in the said occurrence. Proceeding dated 09.11.09 records that troubled and perplexed Mukeem (PW-8) had started weeping in the court sorrowfully pleading; what else can I state, I have lost everything (aur kya batau mera sab kuch khatam ho gaya tha). PW-8 when cross-examined by the Additional Public Prosecutor reluctantly accepted that 6-7 months prior to the violent incident, problems/ disputes had affected her marital life when Akil and his family had shifted and started residing nearby. She denied not having cordial relationship with Akil and his sons, but did allude that there were small problems. Even Nadeem (PW-2) in his cross-examination was hesitant when he averred that he did not know whether Mukeem (PW-8) was living happily or not. We would accept the version given by Musharraf (PW-1) that there were differences between Akil and Mukeem (PW-8). Tabassum (PW-3) affirms in her cross-examination by the Additional Public Prosecutor that she had informed the police that there were frequent quarrels between Mukeem (PW-8) and jeth Akil, after they started living in the neighbourhood. Mukeem's in laws would harass her as they wanted Mukeem to leave the house and were putting pressure on Tahir Khan to divorce Mukeem. Ishrat Ali (PW-4) too has accepted that there were differences and contrite between Mukeem and her mother-in-law, jeth and jethani. Sharafat Ali (PW-5), has averred that Mukeem had good relations with her husband earlier and also when PW-5 deposition was being recorded, but Mukeem was living separately, not in the house where the appellants were residing. It is clear and apparent from the statement of Mukeem (PW-8) that she was being pressed and compelled not to state facts seen by her. Significantly, PW-8, when cross-examined by the additional public prosecutor under compulsion of solemn oath recounted that she had seen Sikandar, Rashid and Nisar with knives in their hands. Her jethani, Shahjahan was running behind them.

12. The aforesaid testimonies clearly reveal and tell the latent cause, which had led to the occurrence, though the immediate cause was the altercation between Musharraf (PW-1) and Nisar (since deceased) at about 8-8.30 P.M. on 11th June, 2005. There was discord and differences between Shahjahan and her family and Mukeem (PW-8), who had married Tahir. This had snow balled and led to the violence.

13. It is correct that Ishrat Ali (PW-4) could not remember and recall the perpetrators who had inflicted injuries on the two deceased, Musharraf (PW-1), Nadeem (PW-2) and Sharafat Ali (PW-5), and could only remember that the appellant Sikandar had stabbed him. Similarly, the version given by Sharafat Ali (PW-5) that Nisar (since deceased) had caused injuries to him and Sikandar had stabbed Munna (Aziz-ul-Hassan) is at variance with the version given by Musharraf (PW-1), Nadeem (PW-2) and Tabassum (PW-3). However this divergence would not affect their core deposition. The trial court in the impugned judgment has rightly noticed that testimonies of Musharraf (PW-1) and Nadeem (PW-2) were recorded in the year 2007, the testimony of Ishrat Ali (PW-4) was recorded in the year 2008 and Sharafat Ali's (PW-5) in the year 2009. There was thus a long gap and it was practically difficult for the witnesses to remember minute details. Secondly, the three persons, who were armed with knives, had indulged in violence and stabbing, in which as many as six persons had suffered injuries. It would have been difficult to observe and then exactly narrate which of the perpetrator had caused injuries to a specific victim. Three male perpetrators were armed with knives and all of them had caused injuries.

14. Nadeem (PW-2) in his cross-examination had professed that quarrel had continued for about 30-60 minutes, which to our mind is improbable and an overstatement. Musharraf (PW-1) has stated that quarrel had lasted for about 10 minutes. Tabassum (PW-3) has stated that the incident had continued for about 15 minutes and Ishrat Ali (PW-4) has stated that the violence had continued for about 10 to 12 minutes. The exaggeration on the part of Nadeem (PW-2) would not mean that his core assertion on the involvement of the appellants as perpetrators should be disregarded or disbelieved.

15. Musharraf (PW-1), Nadeem (PW-2) and Ishrat Ali (PW-4) in their testimony have specifically affirmed the presence of Shahjahan though they had not attributed any specific word to her. She was not carrying any knife and the eye-witnesses do not attribute specific acts of physical violence to Shahjahan. However, they have affirmed, her presence at the spot, she having come with her sons who were armed with knives. Violence was almost instantaneous and the perpetrators had come with a predetermined mind and intent to teach a lesson and indulge in physical violence.

16. Sharafat Ali (PW-5) , the father, in his examination-in-chief recorded on 1st May, 2009 has testified that Shahjahan had shouted loudly that no one should be left (koi bachane nap paye). More telling in the testimony of Tabassum (PW-3) who has testified that Shahjahan, the mother of Sikandar, Rashid and Nisar (since deceased) had asked her sons to drag Musharraf (PW-1) out of the house. Earlier all of them had banged and broken the main door, a fact affirmed and asserted by Sharafat Ali (PW-5) also. Her father Sharafat Ali (PW-5) and her brother Nadeem (PW-2) were stabbed. Her mother Reshma also received stab wounds. In her cross-examination by the Additional Public Prosecutor, PW-3 affirmed that Shahjahan had instigated and urged her sons that no one should be left and that all of them should be finished (koi na bachne paye in sab ka aaj kaam tamaam kar do).

17. In view of the aforesaid ocular evidence of Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4) and Sharafat Ali (PW-5), we have no hesitation in holding that Shahjahan was certainly present and had trespassed into the house for causing hurt and is equally liable for the injuries and murder of Reshma and Aziz-ul Hassan @ Munna as she had shared common intention under Section 34 IPC.

18. At this stage, we would also deal with and reject the contention of the appellants that there was a fight and brawl between Aziz-ul-Hassan @ Munna and Sharafat Ali (PW-5) and his family members and, resultantly fatal stab wounds were inflicted and the appellants had not inflicted and given knife wounds thereby causing death of Reshma and Aziz-ul-Hassan @ Munna and injuries to the eye-

witnesses. The aforesaid sophism was certainly put to the witnesses Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4), Sharafat Ali (PW-5), Mukeem (PW-8) and even Mohd. Zakir (PW-6), but, is make-belief and far-fetched version devoid of any truth. The trial court has rightly rejected the said assertion of the appellants as incredible. A suggestion given to some of the witnesses was that the deceased Aziz-ul-Hassan @ Munna would often tease Tabassum (PW-3). The deception again is devoid of any truth and reflects weakness of the line of defence adopted. We do not see any reason and cause for the aforesaid witnesses closely related to the deceased Reshma to falsely and wrongly implicate the present appellants, if the injuries were inflicted and caused by interse fight between family of deceased Reshma and Aziz-ul-Hassan @ Munna. Even Mukeem (PW-8) in spite of her awkward and sensitive position has accepted that as per information, which would be hearsay, the appellants were involved and had committed the crime in question.

19. There is ample evidence and material to show that the occurrence in question had taken place outside the residence of the appellants located at 2066, Gali No. 21, New Mustafabad, Delhi. The said fact has been deposed to by police officers SI Jagbir Singh (PW-12), Ct. Shyam Lal (PW-13), Raj Kumar (PW-19) and SI Desh Pal Singh (PW-29) who had visited the spot immediately after the occurrence and had lifted the evidence in form of two shirts, two chunnis, slippers, blood stained earth, earth control, etc. They have deposed about seeing blood, which was lying at the spot. The place of occurrence is also described in the scaled site plan marked Exhibit-PC, admitted by the counsel/amicus curiae appearing for the appellants.

20. We have no hesitation in rejecting the contention that the ocular evidence of Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4) and Sharafat Ali (PW-5) should be discarded and disbelieved, for they are interested witnesses being related to Reshma. The said contention is fallacious, for their presence at the spot get affirmation and cannot be doubted because the violence and the injuries were perpetrated inside and outside their house. There was no reason or cause for them to falsely implicate the three appellants. The nature of injuries and the fact that Musharraf (PW-1), Nadeem (PW-2), Ishrat Ali (PW-4) and

Sharafat Ali (PW-5) had themselves suffered injuries in the said occurrence reinforces our opinion that their version is trustworthy and true. In the facts of the present case, it is difficult to accept the contention that the injured witnesses, who had lost their close relative wanted to shield the real culprits and have named the appellants only due to some enmity [see observations of the Supreme Court in Akhtar and Others Vs. State of Uttaranchal (2009) 13 SCC 722].

21. At this stage, we would like to examine the deposition of Mohd. Zakir (PW-6). Mohd. Zakir (PW-6) has averred that he being a nephew of Aziz-ul-Hassan @ Munna, was living with him. PW-6 professed having seen the said occurrence but could only identify Shahjahan and was not able to identify Rashid, Sikandar and Nisar (since deceased) eluding that due to lapse of time, he was unable to do so. He initially gave the date of occurrence as 6th June, 2005 and later on corrected the date as 11th June, 2005 when he was cross-examined by Additional Public Prosecutor. The other eye witnesses, namely, Musharraf (PW-1), Nadeem (PW-2), Tabassum (PW-3), Ishrat Ali (PW-4) and Sharafat Ali (PW-5) have not deposed and affirmed the presence of Mohd. Zakir (PW-6). Shabbi Alam (PW-9), who is also a nephew of Aziz-ul-Hassan @ Munna, in his deposition has not mentioned that he had seen Mohd. Zakir (PW-6) at the spot. However, even if we discard the testimony of Mohd. Zakir (PW-6), there is enough evidence to implicate and show that the appellants were the perpetrators. Mohd. Zakir (PW-6) in the first sentence of his cross-examination has stated that his statement was recorded by the police on 11th September, 2005 and in the second sentence has stated that it was correct that prior to 11th September, 2005, he never met the police. Subsequently, several portions of his statement under Section 161 Cr.P.C. marked Ex.PW6/DA were confronted to him. The date mentioned on this document Ex.PW6/DA is 12th June, 2005. Importantly, the Investigating Officer of the case, namely, Inspector Palvinder Singh (PW-31) and SI Desh Pal (PW-29) were not questioned and challenged on the pretext that they had not recorded the statement of Mohd. Zakir (PW-6) on 12th June, 2005 but on 11th September, 2005.

22. As per the prosecution version and the testimonies of SI Jagbir Singh (PW-12), Ct. Shyam Lal (PW-13), SI Sushil Kumar (PW-14) HC Raj Kumar (PW-20) and Inspector Palvinder Singh (PW-31), two knives were recovered on 14th June,

2005 at the behest of Sikandar and Nisar (since deceased), who had made disclosure statements Ex.PW12/B and Ex.PW12/A, respectively. As per the CFSL report marked Ex.PW31/X and Ex.PW31/Y, human blood was found on the said knives but blood group could not be ascertained.

23. S.I. Jagbir Singh (PW-12) along with S.I. Deshpal (PW-29), had been assigned the duty to verify DD entry No.20-A recorded at Police Station Gokul Puri, Delhi at 9:00 a.m. and thereafter they proceeded to house No.2066, Street No.21 New Mustafabad. They observed and noticed that blood was lying in different places including the courtyard of the house, gate and in the street. Similar statement is made by Constable Shyam Lal (PW-13), who had seen blood spilled in substantial quantity on the ground, three slippers and on clothes, which were lying on the spot. Head Constable Raj Kumar (PW-19) affirms the presence of blood in substantial quantity near the main door and that one blood-stained shirt was found lying in the courtyard.

24. ASI Maha Singh (PW-22) was posted in PCR, Northeast Zone and was in-charge of the PCR Van. On 11.6.2005 at 9:00 p.m. after receiving information regarding brawl and use of knife he had proceeded to Gali No.21, New Mustafabad and had seen one lady whose name he later learnt was Reshma, who had sustained injuries and was unconscious. He had taken Reshma in the PCR Van to the GTB hospital where she was declared as brought dead. Reshma at that time could not speak. ASI Hari (PW-23) was posted as in-charge of another PCR Van and on receiving similar information had reached the spot and had taken Nadeem (PW-23) and Musharraf (PW-1) to the hospital in injured condition. ASI Madan Singh (PW-30) has testified that he had also moved Sharafat Ali (PW-5) in an injured condition to GTB Hospital after receiving information regarding use of knife at house No.2066, Gali No.21 [See cross-examination]. Medical certificates also support the prosecution version. Dr. M. Dass (PW-11) has testified that one Aziz-ul-Hassan was brought to the GTB hospital by Shabi Alam at 9:45 p.m. on 11.6.2005. He had noticed a stab wound on his body and had declared the injured as brought dead. The MLC prepared by PW-11 was marked Ex.PW-11/A. On the same day at about 10:00 p.m. injured Nadeem (PW-2) was brought by Head constable Hari Singh (PW-23) to the hospital. Nadeem was attended to by Dr.

Bhupinder Chaudhary, who was working under the supervision of Dr. M. Dass (PW-11). PW-11 has deposed that Dr. Bhupinder Chaudhary had left service and his whereabouts were not known. PW-11 identified the handwriting and signature of Dr. Bhupinder Chaudhary on the MLC (Ex.PW11/B) of injured Nadeem (PW-2). Dr. Mohit Joshi (PW-15) was working as a senior resident in the Surgery Department of GTB Hospital and had examined Nadeem (PW-2) and opined that the incised injuries were caused by a sharp edged weapon. The said opinion was recorded in the encircled portion X in the MLC (Ex.PW11/B). Dr. M. Dass (PW-11) had, examined Musharraf (PW-1), who was also brought by the Constable Hari Singh at 10:00 p.m. on 11.6.2006. On examination he had noticed that Musharraf (PW-1) had suffered four sharp injuries on his left shoulder, left arm, left elbow and left palm. MLC of Musharraf (PW-1) was marked as Ex.PW11/C and was signed by PW-11. The injuries were found to be simple and caused by a sharp edged weapon. The said opinion was given by Dr. Pradeep Saini, who has appeared as PW-16 and affirmed his opinion. Dr. M. Dass (PW-11) has similarly deposed about the medical examination of the injured Sharafat Ali (PW-5) and Ishrat Ali (PW-4) and preparation of their MLCs marked Ex.PW11/D and Ex.PW11/E respectively. Sharafat Ali (PW-5) was attended to by Dr. Narender Rana, who was working under the supervision of Dr. M. Dass (PW-11). Dr. Narender Rana had stopped working in GTB hospital and his present whereabouts were not known. PW-11 was conversant with the handwriting and signature of Dr. Narender Rana and had identified the same on the MLC Ex.PW11/D. Sharafat Ali (PW-5) had an injury on the clavicle region, which had exposed the muscles and the injury was bone deep. The patient was given first aid and was referred for surgery. As per the records, the said injury was opined to be simple in nature. MLC marked Ex.PW11/E of Ishrat Ali (PW-4) was prepared by Dr. Alok whose signature and handwriting were identified by PW-11 as Dr. Alok had left the hospital and his whereabouts were not known. Ishrat Ali (PW-4) had an incised wound over right scapula region. This patient was also referred to S.R. Surgery.

25. Dr. Arvind Kumar (PW-17) had conducted the post-mortem on the dead body of Aziz-ul-Hassan on 12.6.2005. On internal examination he had noticed four ante-mortem injuries including three stab wounds present on the left side of the chest, below the angle of mandible on the left side of the neck parallel to ramus of

mandible and placed horizontally; and over the left side of back of the chest. He had given exact details of the trajectory, depth and size of the three wounds. The first wound had gone inside the chest cavity cutting 5th rib intercostals body and muscle and upper 6th rib. The wound had passed through the heart and had a depth of 14.5 c.m. On internal examination he found that there was blood in pleural cavity and the stomach had 200 ml. of semi digested food. Injury No.1 was sufficient to cause death in ordinary course of the nature.

26. Dr. Arvind Kumar (PW-17) had also conducted post-mortem on the dead body of Reshma and had noticed one external ante-mortem injury in the form of a stab wound 5.5cm x 3 c.m. present over the right side of the face over the mandible, 3 c.m. below and front of the right ear lower lobe and 4 c.m. away from the right angle of the mouth. The direction of the wound was inward, backward and down and had cut the neck muscles, right carotid artery and had also cut several tissues around the larynx, para-vertebral muscles and vessels. The total depth of the wound was 12 c.m. On internal examination, the stomach was found to be containing 150 ml. semi digested food. The cause of death in the case of Reshma was the aforesaid injury, which PW-17 opined was sufficient to cause death in ordinary course of nature. Post mortem reports of Aziz-ul-Hassan @ Munna and Reshma were marked Ex.PW17/A and Ex.PW17/D respectively.

27. In view of the aforesaid findings, we affirm the conviction of the appellants Sikander, Rashid and Shahjahan under Section 302 read with Section 34 IPC, for murder of Reshma and Aziz-ul-Hassan @ Munna; under Section 307 read with Section 34 IPC for having inflicted stab injuries to Nadeem, Musharraf, Sharafat Ali and Ishrat Ali; and under Section 452 read with section 34 IPC for trespassing in 2066, Street No.21 New Mustafabad with preparation for causing hurt and assault. We also do not see any reason to interfere with the order on sentence. The appeal being devoid of merit is dismissed.

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