

Naresh Kumar Vs. State

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Court : Delhi

Decided On : Mar-22-1996

Reported in : 1996CriLJ4105

Judge : Mohd Shamim and; P.K. Bahri, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 299, 300, 302, 304 and 324; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 313; [Arms Act, 1959](#) - Sections 27

Appeal No. : Criminal Appeal No. 170 of 1992

Appellant : Naresh Kumar

Respondent : State

Advocate for Def. : Ms. Sima Gulati, Adv.

Advocate for Pet/Ap. : Vinod Yadav, Adv

Judgement :

P.K. Bahri, J.

1. Appellant-Naresh has been convicted of offences punishable under Ss. 302, 324 of the Indian Penal Code and S. 27 of the Arms Act vide judgment dated May 20, 1992 and by subsequent order dated May 26, 1992, has been sentenced to

undergo imprisonment for life and to pay a fine of Rs. 5,000/- and in default to pay fine to undergo one year rigorous imprisonment on the first count and rigorous imprisonment for one year on the second count and rigorous imprisonment for three years and a fine of Rs. 1,000/- and in default to pay fine to undergo rigorous imprisonment for nine months on the third count with the direction that the substantive sentences of imprisonment shall run concurrently, by an Additional Sessions Judge, Delhi. He has come up in appeal in challenging his convictions and sentences.

2. The facts of the case, in brief, are that PW 4 Smt. Nirmala was married to appellant-Naresh in the year 1984. Her father Hari Ram was employed as sweeper with municipal authorities and she had five more sisters and at the relevant time her parents were residing in house No. M-286/287, J.J. Colony, Shakarpur, whereas her husband was residing in a house in Samaypur. It is the case of the prosecution that her husband was addicted to vices of liquor and gambling and had pressed her to bring Rs. 5,000/- from her parents. Nirmala was resisting this untoward demand of her husband and had been telling him that her parents cannot arrange such amount as her father was a poor person who was to look after his five daughters also but her husband insisted on getting Rs. 5,000/- as he was to return the amount taken on loan from some persons. It is alleged that on July 3, 1985, the appellant brought Nirmala at about 5 p.m. and left her near the Britania Factory Premises which is located near the house of her parents and required her to go to her parents' house and bring Rs. 5,000/- telling her that he would come back after 3-4 days to take her and at that time the money must be arranged. Nirmala came to her parents house.

3. On July 8, 1985, at about 12.30 p.m. Naresh was seen coming to the house of her parents when she along with her sister PW 5 Smt. Anita, then aged about 15 years and Km. Sonu PW 9, then aged 10 years, were present sitting on a cot just outside the house. At that time her mother (since deceased), namely, Smt. Chand Kaur was present in the house and was asleep. Nirmala along with her husband had entered the house and on his query as to whether she had been able to arrange the money, Nirmala replied that her parents could not do so which enraged the appellant who shouted abuses at her. On hearing the said noise both

her younger sisters also came inside and her mother also woke up. Chand Kaur, on seeing that her daughter was being abused by Naresh, rebuked Naresh-appellant uttering the words that he should be ashamed of hurling abuses at her daughter in this manner. Appellant immediately took out a knife from the right pocket of his pant, on seeing which Nirmala and her mother Chand Kaur got frightened and they ran and entered the rear room of the house. Naresh-appellant followed them and entered the room and stabbed Nirmala, when her mother tried to save her, he stabbed Chand Kaur two or three times with the same knife and thereafter he ran away.

4. It is alleged that some persons of the locality pursued Naresh for apprehending him and in the meanwhile Nirmala's brother Ashok PW 10, then aged about 21 years and a neighbour Attar Singh PW 17 had reached there and they also pursued appellant-Naresh and managed to apprehend him and took him to Police Post Anandvas within the jurisdiction of Police Station Punjabi Bagh. Sripal PW 1 had taken Chand Kaur to the hospital in the three-wheeler scooter of PW 2 Rajinder Babu. At 1.30 p.m. a Daily Diary report Ex. PW 26/A was recorded at Police Post Anandvas to the effect that Ashok and Attar Singh had brought Naresh Kumar-appellant to the Police Post along with blood stained knife and they had disclosed that Naresh had stabbed Chand Kaur, his mother and his sister Nirmala with the knife.

5. PW 26 SI Ranbir Singh, then posted as in charge of Police Post Anandvas, had taken over the said knife of which sketch Ex. PW 10/A was prepared and he put the same into a sealed box and vide memo EX. PW 10/B he took the same into possession. The sketch was signed by Ashok Kumar and Attar Singh. Thereafter he proceeded to the place of occurrence along with said two witnesses and constables. In the meanwhile Chand Kaur was brought to Ram Manohar Lohia Hospital at 1.35 p.m. by Sripal and vide MLC Ex. PW 24/A she was declared brought dead. The doctor had noticed three stab injuries on the person of Chand Kaur. The duty constable at the said hospital had conveyed the information to the Police Post regarding this fact and the entry made in the Police Post, copy of which is Ex. PW 12/A, was forwarded to SI Ranbir Singh who in the meanwhile had reached the place of occurrence and was in process of recording the

statement of Nirmala on the basis of which the case was registered and in the endorsement on the Rukka SI Ranbir Singh had recorded that the information regarding Chand Kaur having been brought dead to the hospital has been received by him and he had also noticed that one wooden plank of the door, of the room in which the dead body of Chand Kaur was found, stood broken. FIR was recorded in the Police Station at 3 p.m. on that date. Ex. PW 6/A is the copy of the said FIR.

6. Investigating Officer SI Ranbir Singh PW 26 thereafter prepared the site plan of the place of occurrence Ex. PW 26/C and picked up the blood from the spot and took into possession the broken half plank of the door and prepared the memo EX. PW 10/C in that respect. He also took into possession the blood stained clothes i.e. salwar Ex. P2 and jumper Ex. P3 from the person of Nirmala and also took into possession the blood stained clothes of Anita PW which are Exs. P4 and P5 and had prepared the memos in that respect Exs. PW 10/D and PW 10/E. He recorded the statements of the witnesses and also got the place of occurrence photographed. He had sent Nirmala for medical examination as per application Ex. PW 26/D. The Medico Legal Certificate of Nirmala EX. PW 18/A indicated that she had been medically examined at 6.45 p.m. She was brought to the hospital by Constable Rajnit Singh and an incised wound about 2.5 cm over right cuneal region was found besides abrasion about 0.5 cm on left ring finger. Injuries were opined to have been caused by sharp-edged weapon. Thereafter the Investigating Officer had prepared the inquest papers regarding dead body of Chand Kaur. The blood stained clothes which were worn by the accused EX. PW 11 pant and Ex. P12 shirt were also taken into possession vide memo EX. PW 10/F. After post-mortem the clothes of the deceased and the blood sample were taken into possession vide memo EX. PW 11/A.

7. The post-mortem was performed by Dr. L. T. Ramani PW 20 on July 9, 1985 at about 3 p.m. and he found an incised wound on left side of the chest wall below the left breast measuring (0.5 cm X 0.2 cm X skin deep) margins were regular and an incised wound (3 cm X 0.5 cm X depth)? present obliquely on the right hypochondria anterior axillary line. 22 cm below the arm-pit margins of the wound were regular. Another incised wound (2 cm X 0.5 cm X muscle deep) on the back,

of right index finger. He opined that injury No. 2 was sufficient to cause death in the ordinary course of nature and death was due to hemorrhage and shock resulting from injuries and time since death was 24 hours and he had been also shown the knife which was allegedly recovered from the accused and he opined that the injuries were possible with the aforesaid knife. He gave his post-mortem report Ex. PW 20/A.

8. The case property was sent to CFSL and the reports Ex. PW 21/A and PW 22/A were received which indicated that deceased had 'A' group blood and the same was found of the blood lifted from the place of occurrence and also on her own clothes and significantly also on the clothes of the accused and clothes of Anita and blood of human group 'O' was found on the clothes of Nirmala which indicated that blood group of Nirmala was 'O'. The blood was detected on the knife but it was not sufficient to enable the experts to find out whether it was human blood and what could be the group of that blood.

9. The learned Additional Sessions Judge has, on the basis of the evidence, come to the conclusion that it was the appellant who had committed the murder of Chand Kaur and had also inflicted the injuries on the person of Nirmala. The version given by the defense as is evident from the cross-examination of the material witness is that Nirmala was not happy with her marriage with the appellant and she was having some love affair with Attar Singh even prior to her marriage and she was not inclined to continue to live with the appellant and had come back to her parents house and appellant had come to the said house with a view to persuade Nirmala to accompany him but on his entering the house he found Nirmala and Attar Singh lying on a particular cot which he resented and Chand Kaur also had awakened and she also resented the conduct of her daughter and Attar Singh got infuriated and brought a knife from the kitchen with which he wanted to attack the appellant who ran and entered the rear room and was followed therein by Chand Kaur and Nirmala and he bolted the door from inside but Attar Singh broke open the door and tried to attack the appellant with the said knife and Nirmala in order to save the appellant came in between and thus received the injuries at the hands of Attar Singh and Attar Singh is stated to have then stabbed Chand Kaur with the same knife.

10. The prosecution has tried to bring home the offences to the appellant on the basis of the oral testimony of three daughters of the deceased and particularly one of them being injured whose presence at the place of occurrence was not even doubted by the defense. The corroboration to the oral testimony of the three daughters is sought from the statements of Ashok and Attar Singh who had apprehended the appellant while he was trying to make his escape and had got snatched the knife from the hand of the appellant which was produced before the police along with the appellant.

11. The learned counsel for the appellant has vehemently argued that it was not sale on the part of the Additional Sessions Judge to have placed implicit reliance on the statements of relation witnesses. He has urged that in fact other two daughters of Chand Kaur were not even the eye-witnesses of the occurrence whereas Nirmala was not happy with the appellant and was carrying on the illicit affair with Attar Singh and thus, she could not have been relied upon to bring home the offences to the appellant. He has urged that the reason given by Ashok and Attar Singh to be present at the time appellant was allegedly escaping from the place of occurrence is also doubtful. He has pointed out certain discrepancies appearing in the statements of various witnesses and has placed reliance on certain judgments in support of his contentions.

12. The learned counsel for the State on the other hand has urged that relation witnesses, in the present case three daughters of the deceased, were the most natural witnesses inasmuch as the offence has been committed in the house where they were living and Nirmala herself had received the injuries and is a stamped witness whose presence at the time of the occurrence is not even doubted by the defense and there could be no reason for these three eye-witnesses to have falsely implicated the appellant if the appellant was not the guilty person. He has urged that the defense version is merely a cock and a bull story and does not find support from any evidence brought on record apart from bald suggestions given to the witnesses who have denied such suggestions.

13. In *Anil Phukan v. State of Assam*, : 1993 CriLJ1796 , it has been laid down that mere relationship of the witness with the deceased is no ground to discard his

testimony if it is otherwise found to be reliable and trustworthy. In the normal course of events a close relation would be the last person to spare the real assailant and implicate a false/innocent person. In *Srikanta Datta Narasimharaja Wodiyar v. Enforcement Officer*, : 1993 CriLJ2086 ; the Supreme Court has also laid down that when it appears from the prosecution case that female members alone were at the scene of occurrence and there was no evidence showing that any other person after the occurrence appeared at the scene to engineer the case against the accused, evidence of the eye-witnesses should be accepted. It is no doubt true that where the prosecution case is based on relation witnesses the court should be on its guard to examine the statements of such relation witnesses with care and caution but if the court on such examination finds the statements of such witnesses to be truthful and trustworthy then there is no need to seek any further corroboration for bringing home the offence based on such ocular testimony of relation witnesses.

14. The learned counsel for the appellant, on the other hand, has cited *Badruddin Rukonddim Karpude v. State of Maharashtra*, : 1981 CriLJ729 . In the said case it was held that evidence of the interested witnesses must be examined with care and caution and if they had made improvements in the prosecution story in material particulars then reliance cannot be placed on testimony of such witnesses. Similar observations were made by the Supreme Court in the case of *Biri Singh v. State of U.P.*, : 1992 CriLJ1510 .

15. It has been urged before us that Nirmala is not a truthful witness inasmuch as she does not explain in her first statement to the police as to how the door of the room stood broken. We have already referred to the contents of the statement made by Nirmala initially to the police and also to the endorsement made by the Investigating Officer in this respect. It is true that Nirmala initially had not given any version as to how the door stood broken but her statement clearly shows that she and Chand Kaur had taken refuge in the near room in order to escape the assault of the appellant and the appellant had rushed and entered that room. Mere omission to mention that he had forced his entry by breaking the door would not, in our view, show that Nirmala had deliberately omitted any important fact from the narration given by her to the police initially. The fact that the door stood broken

was evident to the Investigating Officer when he made a mention of the same in the endorsement. It was the duty of the Investigating Officer to have elicited some facts from Nirmala with regard to said broken door when he was recording her statement but in our view this omission of Nirmala to mention about the broken door in her initial statement to the police is not such a vital omission as to render her testimony on material particulars as not trustworthy.

16. It has been urged by the learned counsel for the appellant that Nirmala in her testimony in court has not referred that appellant had at any time given any threat to cause any harm to any family members if his demand of Rs. 5,000/- was not met whereas Ashok in his testimony has made an improvement by deposing that in fact such a threat was given by the appellant which was made known to the family by Nirmala. We do not think that this discrepancy which has appeared in the prosecution case is of any vital importance. The whole case of the prosecution against the appellant is that appellant had harassed Nirmala for getting Rs. 5,000/- from her parents and Nirmala was left by the appellant near her parents house with a clear direction to her that she should arrange Rs. 5,000/- within 2-3-days. There is no reason to disbelieve Nirmala in this respect of the case.

17. It has been then pointed out that witnesses have made discrepant statements with regard to the fact as to who was in possession of the knife when appellant was brought back to the place of occurrence by Ashok and Attar Singh. Nirmala had deposed that at that time the knife was in the hand of Attar Singh and Anita deposed that knife was with the accused whereas the Investigating Officer has stated that when appellant was produced before the police the knife was also produced by Ashok. Ashok and Attar Singh have deposed that as soon as the appellant was apprehended by them, the knife was snatched by Attar Singh from the hand of the appellant. We do not think that any serious discrepancies have occurred on this point. After all Ashok was the son of the deceased and when they went to the Police Post it is possible that Ashok might have taken over the knife from the hand of Attar Singh and handed over the same to the Investigating Officer and this fact was recorded by the Investigating Officer that knife had been produced by Ashok. On such minor details which are of not much consequence the witnesses could give statements on the spur of moment when questioned in

court after lapse of so much time.

18. It has been then urged that it was really unnatural conduct of Ashok and Nirmala that they did not take any urgent steps to take Chand Kaur, who had been seriously stabbed, for medical treatment. It is to be emphasized that Chand Kaur had been got admitted in the hospital by Sripat very promptly. Appellant was brought back to the house after being apprehended by Ashok and Attar Singh. It is stated by Ashok that her mother had been removed to the hospital. So, it cannot be said that Ashok was callous in his conduct in not seeing that her mother is given proper medical treatment. It is true that Ashok at that time thought it more advisable to take the appellant to the Police Post than to go to the hospital for looking after his mother. In particular set of circumstances, a young person of the age of Ashok could act in this manner that after assuring himself that mother was being taken to hospital he could think of first handing over the culprit to the police.

19. As far as Nirmala is concerned, she was the only elderly lady present in the house when her mother had been brutally stabbed and she was present with her two young sisters in the house. Sripat had deposed in court that it was at the instance of Nirmala that he had taken Chand Kaur to the hospital. Nirmala could have thought in her wisdom that she would get her own treatment later on after her male family members were to come back to the house to look after the two young sisters and even she could expect the police to come to record her statement at the house. We cannot say that there was any abnormal conduct of Nirmala or of Ashok in such a situation which could render their statements unreliable. The fact remains that Nirmala herself had received the injuries. So it cannot be doubted with any rationality that she is not the eye-witness. Even the defense version put to her makes her an eye-witness of the occurrence.

20. It has been then urged that Anita and Sonu were not eye witnesses as in the site plan it is not shown that where they were sitting prior to the stabbing incident. We do not think that this omission of the Investigating Officer in any manner would show that they are not the eye witnesses. The occurrence had taken place in their house and normally they were bound to be in the house at that time of the occurrence. It has been pointed out that these two girls had not raised alarm and

they say that appellant had hurled abuses for half an hour and it is unusual that no neighbours were attracted to the scene of occurrence. We do not find that these facts in any manner would lead to any inference that they are not the eye-witnesses of the occurrence particularly when we find that Anita had hugged her mother and blood of her mother had come on her clothes which would show that she was present at the time of occurrence. The blood could not come on the clothes of Sonu as she had hugged her mother from her feet side. In case the investigation had been unfair the Investigating Officer would have even planted the blood stained clothes on the person of Sonu to show that she was also present at the spot.

21. It has been then urged that Ashok and Attar Singh could not have been friends because of their age difference and it is unnatural for Ashok to say that he had been taking assistance of Attar Singh in his various affairs. We do not find anything abnormal in such associations. After all both are neighbours and there is nothing unnatural about their conduct. It has been then pointed out that there has been discrepancies as to whether Ashok was on that day going to the bank to withdraw the money for payment to Attar Singh or was to deposit the amount in the bank. Nirmala had deposed that Ashok and Attar Singh had gone to the Bank as Ashok was to withdraw some amount for making some payment to Attar Singh whereas Ashok stated that he in fact had gone to the bank and had deposited Rs. 500/- in his account. It is not necessary that Nirmala could have been aware of the actual purpose of Ashok and Attar Singh going to the bank on that day. In case the testimony of Ashok was doubted by the defense that he had not deposited Rs. 5000/- in his bank account on that day the defense could have easily summoned evidence from the bank to show that Ashok was not speaking the truth. It was not necessary for the Investigating Officer to have collected any evidence from the bank in this connection. It is to be emphasised that Ashok, Anita and Sonu had no reason to join hands with Nirmala to falsely implicate the appellant for murder of their mother in case the appellant was not the real culprit and Attar Singh was the culprit.

22. It has been also urged before us that there has occurred unusual delay in recording the FIR as Metropolitan Magistrate had got the special report at 7.15

p.m. and the inquest proceedings had been delayed when it is shown that inquest papers had been received on July 9, 1985, at 1.45 p.m. by the doctor who was to perform the post-mortem and who performed the post-mortem at 3 p.m. on July 9, 1985. We do not find that there has taken place any unusual delay in recording the FIR. Ashok and Attar Singh had taken the appellant to the Police Post and daily diary was recorded in that Police Post which clearly indicated name of appellant as an accused for having stabbed Chand Kaur and Nirmala. So, nothing turns on this contention of the learned counsel for the appellant that some delay had occurred in sending the inquest papers and in getting the post mortem performed and about six hours had been taken in sending the special report to the Metropolitan Magistrate.

23. It has been urged that Investigating Officer had not bothered to find out the names of other five or six persons who had allegedly pursued the appellant. It has come out in the statements of the witnesses as well as Investigating Officer that whereabouts of those persons could not be located. So, we do not find that there has been any deliberate omission of the Investigating Officer in searching the said five or six persons who had pursued the appellant. It has been urged that Ashok and Attar Singh were at the back of five or six persons who were allegedly pursuing the appellant still Ashok and Attar Singh would like the court to believe that they moved ahead of those five or six persons and caught hold of the appellant. We do not think that there is something unusual about this fact because Ashok had seen the appellant coming from the side of his house and he could be more apprehensive that perhaps some mischief had been committed by appellant at his house, so he could be more enthusiastic in following the appellant and apprehending him than any other person. It is urged that there was no reason for Attar Singh and Ashok to have brought back appellant to the house and rather they ought to have taken the appellant to the Police Post which was located nearby. At the time the appellant was apprehended by Ashok and Attar Singh, it was not known to Ashok and Attar Singh that what sort of crime appellant had committed with that blood stained knife. It appears to be a natural conduct of Ashok and Attar Singh that they first brought the appellant to the house of Ashok and on finding that appellant had stabbed Chand Kaur and Nirmala they immediately thought fit to take the appellant to the Police Post.

24. It is urged that neither Ashok nor Attar Singh had deposed that they had seen any blood on the clothes of the appellant and still the Investigating Officer had taken possession of the clothes of appellant. We find from the statement of Investigating Officer that he had noticed blood on the clothes of the appellant and thus, he took steps to take into possession those clothes of the appellant and put them in sealed cover. Mere fact that Ashok and Attar Singh had not mentioned about any blood on the clothes of the appellant in their statement would not show that in fact there was no blood on the clothes of the appellant. Such a fact could be discernible to some persons and not to some other persons unless there was sufficiently prominently displayed blood on the clothes. It can be missed by many persons but not by discerning eye of an efficient Investigating Officer. CFSL report clearly shows that the blood of same group as that of deceased was found on the clothes of the appellant which gives, in our view, due corroboration to the testimony of the eye witnesses. Rather in cross-examination of the witnesses it has been suggested that it was the same knife which was produced before the police by Ashok which had caused the fatal injuries to Chand Kaur and simple injuries to Nirmala. Sufficient blood was not found on the knife from where it could be determined by the experts whether human blood was there on the knife or not. It is not of any significance in the present case.

25. It has been urged that the motive imputed to the appellant for committing this murder is quite weak. It is settled law that where ocular evidence which is credit worthy is there for proving the guilt of the accused, the non proof of motive or proof of a weak imputation is of no consequence.

26. It has been urged before us that a wrong question has been put to the appellant in his examination under Section 313 by asking him whether he had demanded Rs. 3,000/- to Rs. 5,000/- earlier. It appears in evidence of Nirmala that she had earlier given Rs. 300/- and Rs. 500/- to the appellant after getting the same from her parents. It appears that by typographical mistake in the question the figure was recorded as Rs. 3,000/- and Rs. 5000/-. We do not think that this mistake has in any manner prejudiced the appellant in his defense.

27. It has been lastly urged by learned counsel for the appellant that the facts proved in the case do not meet the requirements of Section 300 of the IPC and thus the appellant ought not to have been convicted for an offence of murder under Section 302 of the IPC and ought to have been convicted of an offence punishable under Section 304, Part II of the IPC. The approach of the court in considering whether the case falls under Section 302 or under Section 304 of the IPC has been highlighted by the Supreme Court in the case of State of Andhra Pradesh v. Rayavarapu Punnayya, : 1977 CriLJ1 . It was held as follows :

'..... Whenever a court is confronted with the question whether the offence is murder or culpable homicide not amounting to murder on the facts of a case, it will be convenient for it to approach the problem in three stages. The question to be considered at the first stage would be, whether the accused has done an act by doing which he has caused the death of another. Proof of such causal connection between the act of the accused and the death, leads to the second stage for considering whether that act of the accused amounts to culpable homicide' as defined in Section 299. If the answer to this question is prima facie found in the affirmative, the stage for considering the operation of Section 300, Penal Code, is reached. This is the stage at which the Court should determine whether the facts proved by the prosecution bring the case within the ambit of any of the four clauses of the definition of murder contained in Section 300. If the answer to this question is in the negative the offence would be culpable homicide not amounting to murder punishable under the first or the second part of Section 304, depending respectively, on whether the second or the third clause of Section 299 is applicable. If this question is found in the positive, but the case comes within any of the Exceptions enumerated in Section 300, the offence would still be culpable homicide not amounting to murder, punishable under the First Part of Section 304, Penal Code.'

28. In the present case, on the evidence discussed above it has been established beyond shadow of reasonable doubt that it is the act of the appellant which, resulted in death of Chand Kaur. It is evident that appellant had committed culpable homicide. The appellant had attacked Chand Kaur with the knife. At first Nirmala came in between and was stabbed by the appellant with the said knife,

thereafter the appellant did not stop and inflicted three stab injuries on person of the deceased one after the other, one of which was inflicted on a vital part of the body of Chand Kaur which resulted in her death. The appellant had used a deadly weapon and from the facts mentioned above it is quite clear that he intended to cause death of Chand Kaur by inflicting the said injuries with the said weapon. This act of the appellant comes in the clause (1) of Section 300 and is also definitely covered by Clause (2) which lays down 'if the act is done with the intention of causing such bodily injury as the offender knows to be likely to cause death of the person to whom the hurt is caused'. This act of the appellant does not come within any Exceptions given in Section 300 of the IPC.

29. The learned counsel for the appellant has made reference to Gurnam Singh v. State of Punjab 1995 Cr LR (SC) 776, where the Supreme Court had converted the conviction from Section 302 to Section 304, Part I of the IPC keeping in view the peculiar facts of the said case. In the said case the Supreme Court found that the incident took place in course of a sudden quarrel over the opening of the outlet and random injuries were given on the person of the deceased by two appellants in that case with a spade (kassi) and a chipper (gandasa) and one of the injuries was found sufficient to cause death in the ordinary course of nature. In view of these facts the Supreme Court held that the offence committed was under Section 304, Part I of I.P.C. Facts of that case are totally distinguishable from the facts established in the present case. There was no sudden quarrel arising in the present case. The appellant had come armed with a deadly weapon and had deliberately attacked Chand Kaur with the said knife and it is not that he had caused only one stab injury in the heat of moment but he had stabbed Chand Kaur thrice. There was no grave or sudden provocation given by deceased or by Nirmala which could have provoked the appellant to lose his temper and attack Nirmala and Chand Kaur with the said knife. Hence, we hold that the appellant is guilty of offence of murder punishable under Section 302 of the IPC in the present case.

30. In view of the above discussion, we find that prosecution has been able to bring home the offences with which he was charged beyond any shadow of reasonable doubt. Additional Sessions Judge was right in placing implicit faith in

the testimony of eye witnesses who are the three daughters of the deceased which stands duly corroborated from other circumstances proved in this case as discussed above.

We maintain the convictions and sentences of the appellant and dismiss the appeal.

31. Appeal dismissed.

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