

Sudershan Kumar Vs. State

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Court : Delhi

Decided On : Mar-31-1970

Reported in : 6(1970)DLT566; ILR1970Delhi504

Judge : H.R. Khanna, C.J. and; P.N. Khanna, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 300

Appeal No. : Criminal Appeal No. 38 of 1968

Appellant : Sudershan Kumar

Respondent : State

Advocate for Pet/Ap. : G.S. Bakshi and; B. Dayal, Advs

Judgement :

H.R. Khanna, C.J.

(1) This is an appeal by Sudershan Kumar alias Darshan, aged 25, who has been convicted by learned Additional Sessions Judge, Delhi, under Section 302, Indian Penal Code, for causing the death of Maya Devi by pouring acid on her and has been sentenced to undergo imprisonment for life. The accused has also been convicted under Section 324, Indian Penal Code, for causing injuries to Public Witness Raj Kumari and the infant son of Maya Devi by throwing acid on them, and has been sentenced to undergo rigorous imprisonment for a period of two

years. Both the sentences have been ordered to run concurrently.

(2) The prosecution case is that Maya Devi, who was aged about 19 at the time of the present occurrence, was the daughter of Raj Kumari (Public Witness 1) who was aged about 45 years. Both the mother and daughter had taken to the profession of dancing and singing, and used to live in an apartment on G. B. Road, Delhi. The accused used to visit Maya Devi and had illicit connections with her. The accused wanted Maya Devi to marry him but she declined to do so as the accused was already married to another woman. On account of the above refusal of Maya Devi, the accused used to quarrel with her. A few days before the present occurrence, the accused took Maya Devi along with him. She stayed with him for about 10 or 12 days and thereafter was brought back by the accused to her mother's apartment. The accused on that occasion again asked Maya Devi to marry him but she refused to do so. The accused then threatened Maya Devi that if she did not want to marry him she should either leave Delhi or he would kill her in such a manner that she would have a lingering death.

(3) On August 14, 1967 at about 6 a. m., it is stated, Maya Devi was lying on a cot along with her son, aged about one month. Raj Kumari was at that time lying on another cot in the room. Babu alias Amar Deep, an employee of Raj Kumari, was sitting in a room near the staircase. Raj Kumari's maternal uncle, Kishori Lal, her cousin. Rattan and Ashok, and her mother, Radha (also known as Tara or Ilaichi) were in the verandah. The accused then came there holding jug P. 1 and bottle P. 2 The accused gave Re 1.00 to Babu for bringing tea whereupon Babu left. The accused then poured acid out of the jug on Maya Devi, her son and Raj Kumari. He also remarked that they would be disfigured. Raj Kumari and Maya Devi felt burning sensation and they all started crying. The accused then threw the jug on the cot and placed the bottle on the ground and ran away. Kishori Lal, who saw the incident, as well as Radha then came inside the room and took Maya Devi, her mother and son towards the City Clinic. While going down they met Babu and told him about the occurrence. Raj Kumari, Maya Devi and her son Along with others arrived at the City Clinic, Asaf Ali Road, New Delhi, a private hospital, at about 6 - 30 a. m. They were examined by Dr. V. K. Jain. The doctor found that there were a few streaks and patches of acid burns on the person of Raj Kumari on the right

arm and forearm. He dressed the burns and discharged her with the direction to attend for dressing as an outdoor patient. Acid burns were also found by the doctor on the scalp of the infant child of Maya Devi. Maya Devi had extensive injuries on her person. She was given Morphine and her burns were dressed, and intravenous drip was started. Maya Devi remained in the City Clinic up to August 21, 1967, on which day she was transferred to Safdarjang Hospital.

(4) After getting first aid from the City Clinic, Raj Kurnari went to police-station Kamala Market end lodged there report P.A. at 8 -30 a. m. Asi Surjit Singh then went to the City Clinic and found Maya Devi lying in a precarious condition in room No. 28. Maya Devi was then not in a position to give a statement. The Assistant Sub-Inspector then went to the place of occurrence and recorded the statements of witnesses. He also prepared the site plan and got the place of occurrence photographed. Various articles lying there, including jug P.1 and bottle P.2 which was half full of acid, were taken into possession by the Assistant Sub-Inspector, and put into sealed parcels. After that, the Assistant Sub-Inspector went to the City Clinic and made an application P. F. F. on which Dr. Jain made an endorsement that Maya Devi was not fit to make a statement. The Assistant Sub-Inspector then searched for the accused but could not trace him. The accused was arrested by Asi Rattan Chand Kalia on August 15, 1967, from the zoo on Mathura Road. The offence for which the accused was arrested at that time was under Section 326, Indian Penal Code, and he was bailed out.

(5) On August 16, 1967, Asi Surjit Singh went to the City Clinic and made an application P. F/2 for recording the statement of Maya Devi. Dr. V. K. Jain then made an endorsement on that application permitting the recording of Maya Devi's statement. The Assistant Sub-Inspector then recorded statement P. G. of Maya Devi wherein she named the accused as the person who has thrown acid on her, her mother and son on 14th morning. The statement was recorded in the presence of Dr. Jain. Maya Devi signed the statement in English. Dr. Jain also made an endorsement that the statement had been taken in his presence and that the same had been read over to Maya Devi and had been signed by her.

(6) After August 16, 1967, it is stated, Maya Devi started having toxaemia and infection of the burns. It was, therefore, thought better to transfer her to the special Burns Unit in Safdarjang Hospital. Accordingly, on August 21, 1967, Maya Devi was got admitted in the Safdarjang Hospital at about 9 p.m. Maya Devi was attended to in that hospital by Dr. K. S. Raj Kumar (Public Witness 6), House Surgeon, and Dr. (Miss) Nirmala Lakshmi Naranan (Public Witness 7), Registrar. On August 23, 1967, Shri V. N. Chaturvedi, Sub-divisional Magistrate, Hauz Qazi, on an application having been made to him by Asi Surjit Singh for the purpose, went to Safdarjang Hospital and recorded the statement P. C. C. of Maya Devi. The statement was read over to her. She admitted it to be correct and thumb-marked the statement as well as signed it in English. In statement P.C.C. also Maya Devi stated that the accused had thrown acid on her as well as on her mother and son on the morning on August 14, 1967. Maya Devi died in Safdarjang Hospital at 2.50 a. m. on August 26, 1967. Asi Surjit Singh, on receipt of the information about the death of Maya Devi, went to Safdarjang Hospital and prepared inquest report P. D. The dead body was then sent to the mortuary. Post-mortem examination on the dead body of Maya Devi was performed by Dr. S. S. Kaushal (Public Witness II) on August 26, 1967, at 6 p.m. Sealed parcels of the different articles taken into possession by the police were sent to Forensic Science Laboratory, Chandigarh, where they were examined by Shri Sirinivas Rampal (Public Witness 16). Shri Rampal found that bottle P.2 contained nitric acid. The clothes of the deceased were also found stained with nitric acid. The presence of the acid in jug P.I could not be detected.

(7) After the death of Maya Devi, Asi Rattan Chand arrested the accused on August 26, 1967. The provision of law, under which the case had been registered against the accused, was changed from Section 326 to 304, Indian Penal Code, on August 26, 1967, and Section 302, Indian Penal Code, on September 4, 1967, after the case had been checked by the Prosecuting Deputy Superintendent of Police.

(8) The accused in his statement under Section 342, Criminal Procedure Code, admitted that Maya Devi was daughter of Raj Kumari and that he used to visit her. The accused, however, denied that he wanted to marry Maya Devi and that she

was not agreeable to that. According to the accused, Maya Devi was living with him as his wife without formal marriage and the question of marriage did not arise at all. The accused admitted that he was married to another women. It was denied by the accused that there had been any quarrel between him and Maya Devi on account of her alleged refusal to marry him. According to the accused, Maya Devi used to live with him since January, 1967, and she had come to her mother only 3 or 4 days before the present occurrence on August 14, 1967. The accused denied that he ever threatened Maya Devi that he would kill her in such a manner that she would have to die in agony. The prosecution allegations about the accused having gone to the house of Maya Devi on the morning of August 14, 1967, with a jug and bottle of acid, and about his having asked Babu alias Amar Deep to bring tea or about his having poured nitric acid on Maya Devi her mother and child, were all denied. The accused also denied having purchased any acid. As regards his arrest, the accused stated that he himself went to police-station Kamla Market on August 15, 1967, when he was put under arrest. According further to the accused, the prosecution witnesses were interested and were deposing against him at the instance of the police. The accused further stated:

'I have been falsely implicated. Maya Devi was an educated lady. I am also educated up to Prep. Maya Devi liked me and she did not like to embrace the profession of singing and dancing and her mother used to compel her and wanted her to enter that profession. Maya Devi did not like this. thereforee, her mother was against her. Maya Devi was living with me since January, 1967 and I had been getting her treated in the hospital. She gave birth to a son at my place. Three days before the occurrence she came to see her mother when acid was thrown on her. So far I have come to know her mother threw acid.'

(9) In defense one witness, Rajinder Kumar, was examined. According to Rajinder Kumar, he used to visit the house of Raj Kumari to listen to her songs. Maya Devi did not sing or dance in spite of having been asked by Raj Kumari and used to sit in an adjoining room. The witness added that he went to City Clinic on the morning of August 14, 1967, after coming to know of the present occurrence. Maya Devi then told the witness that her mother had thrown acid on her. The witness also identified the handwriting of Maya Devi on letter D. G. According to that letter,

Maya Devi had left her mother's house because she was in love with the accused and his visits used to result in quarrel between her mother and the accused. It was also added that Maya Devi did not like the life of a singing girl and whatever she had written in that letter was of her own free-will and not under pressure of the accused.

(10) Learned Additional Sessions Judge accepted the prosecution case about the accused having caused the death of Maya Devi by throwing acid on her and about his having caused injuries to Maya Devi's mother and son. The defense evidence of Rajinder Kumar was disbelieved. As regards letter D. G. it was held that it had not come from proper custody and was a fabricated document. The accused was, accordingly, convicted and sentenced as above.

(11) There can be no manner of doubt that Maya Devi died on August 26, 1967, in Safdarjang Hospital. This fact is also admitted by the accused in his statement under Section 342 of the Code of Criminal Procedure. According to the prosecution case, the accused poured acid on Maya Devi and her mother and child on the morning of August 14, 1967 as a result of which Maya Devi died and her mother and child received injuries. The accused has denied this allegation. It has also been argued on behalf of the accused that even if it be held to be proved that he poured acid on Maya Devi, the said act of the accused cannot be held to be the proximate cause of her death.

(12) So far as the first question is concerned, as to whether it was the accused who poured acid on Maya Devi and her mother and child, we have the dying declaration P. G. of Maya Devi which was recorded by Asi Surjit Singh (Public Witness 20) on August 16, 1967. The dying declaration reads as under:-

'I and my mother do the profession of singing and dancing at G. B. Road. Shri Sudershan Kumar alias Darshan had illicit relations with me. He used to take me outside. For some days past, I and my mother had stopped him from taking me outside. This was not liked by him. He wanted to take me forcibly to his house. On 14th August, 1967, in the morning when I got up I saw Shri Sudershan Kumar holding a jug in his hand and a bottle of acid in his other hand. Jug had acid in it. He threw it on my face and body. The acid also fell on my mother who was lying in

the adjoining charpoy. A drop of it also fell on my son. The reason why Darshan has thrown acid on me is that I was not prepared to go with him as desired by him. He used to threaten me quite often, that either I (Maya Devi) should leave Delhi or I should marry him, other wise he would disfigure me and would throw acid on me. But I did not lodge the report considering that he was talking nonsense just that way. This acid has fallen on my chest, back arms. This instance has been seen by my mother, servant Amar, Ashok Kumar, Rattan and Kishori Lal and other women. Shri Sudarshan ran away after throwing the acid. I am making this complaint against Sudarshan Kumar'.

(13) The evidence of Dr. V. K. Jain shows that Maya Devi was in a fit condition to make a statement at that time and that the above statement was recorded in his presence. According to the doctor, the statement was then read over to Maya Devi. She admitted it to be correct. To similar effect is the evidence of Asi Surjit Singh. According to Asi Surjit Singh, Maya Devi, after making the statement, signed it in English. Dr. Jain also then made an endorsement P.G./1 about the statement having been made by Maya Devi in his presence and about her having signed it after it was read over to her. There appears to be no cogent ground whatsoever to disbelieve the evidence of Dr. V. K. Jain and Asi Surjit Singh in this respect.

(14) Apart from the dying declaration P. G. of Maya Devi, which was recorded by Asi Surjit Singh, we have on record the evidence of Shri V. N. Chaturvedi, Sub-divisional Magistrate (Public Witness 17), that he recorded the statement P.C.C. of Maya Devi on August 23, 1967 at 5 .20 p.m. in Safdarjang Hospital. The statement reads as under:-

'I and my mother are doing the profession of dancing and singing at G. B. Road. Darshan Kumar had illicit relations with me. For some days past my mother had stopped him. This was not liked by him. On 14th August, 1967, I got up in the morning at about 6.00 a. m. I saw Darshan holding a jug in his hand and in the other a bottle. The jug had acid in it. He threw it on my face and the body. This also fell on my mother who was lying on the adjoining charpoy. A drop also fell on my son. Darshan has thrown this acid for the reason that I did not go out with him.

He used to give me threats that either I should leave Delhi or marry him. Otherwise he would kill me or disfigure me with acid. I did not lodge any report because I considered this just a threat. This occurrence has been seen by my mother, servant Amar, Ashok Kumar, Kishori Lal and other women.'

(15) Shri Chaturvedi has deposed that Maya Devi was in a fit condition to make the statement. The statement was read over to her. She admitted it to be correct and thumb-marked the same. In addition to the thumb-impression of Maya Devi, the witness also obtained her signatures on the statement. There is no sufficient reason to disbelieve the above statement of Shri Chaturvedi. The fact that he did not get the signatures of any doctor on the statement P.C.C. would not detract from his testimony. The fact that Maya Devi during her stay in Safdarjang Hospital used to be given Morphine injections and other sedative medicines and the fact that her tongue was thickly coated and dry would not go to show that she was not in a fit condition to make the statement P.C.C. It is significant that, according to Dr. Nirmala Lakshmi Naranan, Maya Devi was able to talk and answer questions put to her during the period from 21st to 24th August, 1967. Shri Chaturvedi had no animus against the accused and we fail to understand as to why he should have recorded the statement P. C. C. if in fact it was not made to him by Maya Devi.

(16) According to the version of the accused, it was Raj Kumari who threw acid on Maya Devi. It is, in our opinion, extremely difficult to believe that Maya Devi would spare her real assailant and falsely mention the name of the accused as the person who had thrown acid on her. It also does not appeal to reason that Raj Kumari would throw acid on Maya Devi, who was her own daughter, especially when the throwing of acid was bound to result in disfiguring of Maya Devi and thus rendering her unfit for the profession of dancing and singing. It is also difficult to believe that Raj Kumari would have taken Maya Devi to the hospital for her treatment and thereafter lodged a report about the present occurrence at the police-station, if she herself had thrown acid on her.

(17) The dying declarations of Maya Devi about the accused having thrown acid on her, her mother and child are corroborated by the evidence of Raj Kumari (Public Witness 1). There can be no manner of doubt regarding Raj Kumari's

presence at the scene of occurrence, because she was herself injured as a result of the acid poured by the accused. According to Raj Kumari, it was the accused who poured acid on Maya Devi and also caused injuries thereby to Raj Kumari and the infant child of Maya Devi. There seems to be no cogent ground to disbelieve Raj Kumari in this respect. Raj Kumari also lodged first information report P.A. about the occurrence soon after her dressing and in it the name of the accused as the person who had caused injuries by pouring acid to Maya Devi and others was mentioned. First information report P.A. also lends corroboration to the statement of Raj Kumari. In addition to the above, we have the evidence of Kishori Lal (PW12) who has deposed evidence about the accused having thrown acid on Raj Kumari, Maya Devi and the child and about his having thereafter run away. Nothing cogent has been brought to our notice as might discredit the statement of Kishori Lal.

(18) The prosecution has also examined Babu alias Amar Deep (PW2). After this witness had been cross-examined by the defense counsel, this witness was declared hostile by the trial Court and questions in the nature of cross-examination were allowed to be put to him by the Public Prosecutor. The defense counsel then made a request that he might be allowed to further cross-examine the witness. This request was disallowed by the trial Court. As we were of the opinion that the defense counsel should have been granted an opportunity to further cross-examine the witness, we recalled the witness so that further questions may be put to him by the defense counsel. Accordingly, the witness was further cross-examined in this Court by the defense counsel. The case set up on the half of the accused is that Babu (Public Witness 2) is not Amar Deep and that the witness was an impostor. It was not, however, disputed that the witness produced for cross-examination in the High Court was the same person as had been examined in the Court of Session. Babu, according to his testimony, is not an eye-witness of the occurrence and, in our opinion, nothing depends upon his statement. We have, accordingly, excluded it from consideration. The prosecution case rests primarily upon the dying declarations P.G. and P.C.C. of Maya Devi deceased and the oral evidence of Raj Kumari and Kishori Lal witnesses and so far as these pieces of evidence are concerned we are of the view that they are convincing and reliable.

(19) Much has been made of the fact that doctors in the hospital did not record in the case history sheet the name of the person who had thrown acid on Maya Devi. This argument is without substance, because the doctors are normally concerned with the injuries and their treatment and not with the fact as to who had caused the same.

(20) The next question, which arises for determination, is whether the death of Maya Devi deceased was the result of the injuries caused to her by throwing acid on her. In this respect we find that according to the testimony of Dr. V. K. Jain, he found the following injuries on Maya Devi when he examined her at 6 -30 a.m. on August 14, 1967:-

'1. She was a well-built woman. Her pulse was 100 per minute. Respiration was 22 per minute. There were burns on the face; the whole face with lips and conjunctive Cornea of both the eyes was opaque. Perception and projection of light was present. There was swelling of the face and the face was leathery in appearance. Both ears were burnt. Right ear contracted in appearance. Perception and projection of light means that if light were thrown on Maya Devi's eyes, she could say that the light was being thrown and from which direction the same was coming. Otherwise, she could not see, because cornea of both eyes was opaque. 2. Neck : Complete neck burns on both interior and posterior aspects. 3. Thorax : Burns up to the breasts. Breasts were involved. Trickle of fluid on to the abdomen and chest as well, causing burns in streaks. That trickle of fluid was there but I cannot say if it was acid. It could be acid. 4. Back : Burns approximately up to T-4 level. That means the burns were up to the fourth vertebra of the back and then lower down two to three streaks of burns as if caused by liquid trickling down. That liquid could be acid. 5. Limbs : (Upper limbs). Both upper limbs burnt in patches and streaks up to the fingers and palms. (Lower limb) Isolated burns on the knee and thigh, in streaks only.'

(21) The duration of the above injuries was fresh, within one to two hours. The injuries could have been caused by acid. According to Dr. Jain, the injuries suffered by Maya Devi were sufficient collectively in the ordinary course of nature to cause death.

(22) Dr. K. S. Raj Kumar, House Surgeon of Safdarjang Hospital, examined Maya Devi when she was admitted in that hospital and found her condition as under:-

'1. Her both eyes were open and cornea was hazy and opaque. 2. She was of average built and nutrition. Her general condition was poor, the tongue was thickly coated and dried. She was drowsy, and was responding to the surroundings poorly. There was no anaemia, cyanosis and glands. 3. Local examination showed that there was 35% burnt area over her face, neck, back, arms and chest, and they were badly infected. Foul smell was present. The dressing was soaked with pus.'

(23) The systematic examination revealed no abnormality. Dr. Kumar added that if the burns are to the extent of 30% or above, the same are dangerous to life and that the injuries of Maya Devi were dangerous to life.

(24) Dr. (Miss) Nirmala Lakshmi Naranan (Public Witness 7) has deposed that the dressing of Maya Devi was changed on August 23, 1967 and that at that time the doctor removed the loose slough from her body.

(25) Dr. S. S. Kaushal, who performed post-mortem examination, made the following observations on the dead body:-

'SUPERFICIAL ulceration with seropurulent discharge and pus all over face, front of the chest, back and both upper limbs. Skin on the forehead was blackened. Scalp hair cut short. No smell of kerosene oil. Both lungs were edematous and exude froth on section. Liver was congested. Both kidneys showed cloudy swelling. Stomach empty. Mucus membrane congested. Stomach contained 2 ounces of medicine like fluid. Uterus was empty, normal but deeply congested. Other parts including skull brain were normal.'

(26) Death, in the opinion of Dr. Kaushal, was due to toxæmia and septicæmia from absorption of toxins from extensive superficial ulceration of the body caused by some corrosive material. The doctor added that nitric acid was one of the corrosive materials. The above evidence, in our opinion, goes to show that the injuries received by Maya Devi were of a dangerous character and ultimately

resulted in her death. The fact that Maya Devi lingered on for about 12 days would not detract from our conclusion that the death of the deceased was directly associated with the act of the accused in throwing acid on her. As stated above, the medical evidence shows that 35% of the body surface of Maya Devi was burnt as a result of injuries received by her. According to observations on page 196 of Medical Jurisprudence and Toxicology by Modi, Sixteenth Edition, the involvement of one-third to one-half of the superficial surface of the body is likely to end fatally. It is also significant that the injuries received by Maya Devi as a result of the assault on her were on most vital parts of her body like the face, neck and breast.

(27) Learned counsel for the appellant has referred to the statement of Dr. (Miss) Nirmala Lakshmi Naranan wherein she has deposed that the cause of death of Maya Devi was malaena and respiratory failures. Malaena, according to Dr. Jain, is nothing but passing of old blood in the stool. Dr. Kaushal in his testimony has stated that, in his opinion, the death of the deceased was neither due to respiratory failure nor to malaena. As Dr. Kaushal performed post-mortem examination on the body of the deceased, his opinion, in our view, is entitled to greater weight. Be that as it may, even if it may be held that Maya Devi developed symptoms of malaena and respiratory failure and they also contributed to her death, it would not affect our finding that the acid burns of Maya Devi were direct and not a remote cause of her death. It is, in our opinion, essentially a question of fact. If an injury suffered by the deceased person was so severe that in the ordinary course of nature it was sufficient to cause death it would be homicide but if the injury was not mortal and death was due to other supervening causes the Court would be not justified in holding that the death was due to the injury as its causa causans. In the present case, as stated above, according to Dr. Jain, the injuries caused to Maya Devi were sufficient in the ordinary course of nature to cause death. To similar effect is the statement of Dr. Raj Kumar. It is further corroborated by the testimony of Dr. Kaushal. There is nothing in the statement of Dr. Naranan that the injuries suffered by Maya Devi were not sufficient in the ordinary course of nature to cause death. On the contrary her evidence shows that general condition of Maya Devi was very poor. Looking to all the circumstances we are of the opinion that the death of the deceased can be directly traced to the assault made on her by the accused by throwing acid on her.

(28) We are also not impressed by the argument of Mr. Gurcharn Singh that Maya Devi was not given proper treatment and her wrong treatment led to her death . The material on the record shows that Maya Devi was at first treated in the City Clinic and as there was not much improvement in her condition she had to be removed to the Burns Unit of the Safdarjang Hospital. There is nothing cogent to warrant a finding that Maya Devi did not have proper treatment. Apart from the above, we are of the opinion that the Explanation 2 to Section 299 of the Indian Penal Code affords an answer to the above contention. The Explanation reads as under:-

'EXPLANATION 2.-Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.'

(29) Argument has also been advanced on behalf of the accused-appellant that the doctor described the injuries of Maya Devi to be grievous and not dangerous. There is no force in this argument because the definition of a grievous hurt in Section 320, Indian Penal Code, included any hurt which endangers life. Reference has then been made to the case of Radha Ballabh V. Rex decided by judicial Commissioner of Ajmer and reported in Air 1950 Ajmer 21. In that case the accused threw acid on the deceased. The burns were of a simple nature. The medical evidence on death was contradictory. The acid was found to be very weak. The identity of the acid was not clearly established. It was in those circumstances that the learned judicial Commissioner held that the case fell under Section 324, Indian Penal Code. Another case, referred to on behalf of the accused-appellant, is Kanhaiyalal Sewaram V. State Air 1953 MB 262. In that case, two injuries were found on the body of the deceased and the injuries were not grievous. The medical evidence showed that the injuries could not ordinarily have resulted in death. It was held that the accused were guilty of Section 323, Indian Penal Code. The above two cases were decided on their own facts and, in our, opinion, the appellant can derive no assistance from them.

(30) Mr. Gurcharan Singh, on behalf of the appellant, has next argued that the intention of the accused was only to disfigure Maya Devi deceased and it cannot be said that he intended to cause her death. In this respect we find that the evidence of Raj Kumari shows that the accused had earlier threatened Maya Devi that if she did not marry him or leave Delhi, he would kill her in such a manner that she would have a lingering death. According to the dying declaration P.C.C. of Maya Devi the accused had threatened to kill or disfigure her with acid. Bottle P.2 taken into possession by the police, was half full of acid and it appears that the accused had poured the remaining half of the acid on Maya Devi. As the medical evidence shows that the above injuries were sufficient in the ordinary course of nature to cause death, the case against the accused, in our opinion, would be covered by Clause 3 of Section 300 of the Indian Penal Code. In order to bring the case within the ambit of the above clause, Bose, J' speaking for the Court, observed in the case of Virsa Singh v. State of Punjab, : 1958 CriLJ818 :-

'To put it shortly, the prosecution must prove the following facts before it can bring a case under Section 300 '3rdly'; First, it must establish, quite objectively that a bodily injury is present; Secondly, the nature of the injury must be proved; These are purely objective investigations. Thirdly, it must be proved that there was an intention to inflict that particular bodily injury, that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended. Once these three elements are proved to be present, the enquiry proceeds further and, Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.'

(31) In our opinion all the ingredients requisite to bring the case within the ambit of Section 300, Indian Penal Code, are established in this case.

(32) Reference on behalf of the appellant has been made to the case of Harjinder Singh v. Delhi Administration : 1968 CriLJ1023 and Laxman Kalu Nikalie v. The State of Maharashtra, : 1968 CriLJ1647 . In the first case Sikri, J' speaking for the Court, observed :

'THE evidence indicates that while the appellant was trying to assault Dalip Kumar and the deceased intervened, the appellant finding himself one against two took out the knife and stabbed the deceased. It also indicates that the deceased at that stage was in a crouching position presumably to intervene and separate the two. It cannot, therefore, be said with any definiteness that the appellant aimed the blow at this particular part of the thigh knowing that it would cut the artery. It may be observed that the appellant had not used the knife while he was engaged in the fight with Dalip Kumar. It was only when he felt that the deceased also came up against him that he whipped out the knife. In these circumstances it cannot be said that it has been proved that it was the intention of the appellant to inflict this particular injury on this particular place. It is, therefore, not possible to apply Clause 3 of Section 300 to the act of the accused.'

(33) In the latter case, the injury inflicted on the person of the deceased was a single one. The eye-witness did not speak about the weapon but she only said that the accused hit the victim with a weapon and ran away. Though the injury was a serious one, it was not on the vital part of the chest and had not reached the lungs. The incident itself took place as a result of quarrel over the subject as to when the accused could take his wife back home. It was held that the case did not satisfy the requirements under Section 300 of the Penal Code. Both the above cases, it would thus appear dealt with injuries from blows and decided on their own facts-which have no parallel to those of the present case. In this case, as stated above, the accused went and poured acid on the face and chest of Maya Devi deceased. The act of the accused was obviously preplanned and there can be no doubt that he intended to cause the injuries, which he actually inflicted. The accused-appellant, as such, in our opinion, cannot derive much assistance from the above two cases.

(34) We, therefore, uphold the conviction of the accused. As regards the sentence, the trial Court, in our view, erred on the side of leniency in imposing the lesser penalty upon the accused. Be that as it may, the appeal fails and is dismissed.