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IN THE HIGH COURT OF DELHI

Judgment reserved on : February 5, 2009

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Judgment delivered on : February 10, 2009

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CRL.A. 836/2004

SATPAL SINGH BEDI Appellant
Through: Mr. R.S.Mahla, Advocate

versus

STATE Respondent
Through: Mr. Pawan Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE ARUNA SURESH

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

: PRADEEP NANDRAJOG, J.

1. Case of the prosecution is that the appellant Satpal Singh Bedi and co-accused Sushil, with the intention to rob the deceased Jarnail Singh had stabbed him at around 9:00 – 9:30 AM on 8.8.2003 near the railway lines at Shakur Basti and fled after removing his belongings; as a result of the stab injuries Jarnail Singh died.

2. Criminal law was set into motion when Bhagat Ram PW-2, was on his way to report for duty at the Ordnance Depot, Shakur Basti on 8.8.2003 and at around 9:30 AM saw the dead

body of his colleague Jarnail Singh, who was also an employee working at the Ordnance Depot, Shakur Basti. The information was conveyed to the police by means of a telephone call and at 9:55 AM, the same was recorded at PS Punjabi Bagh, vide DD No.7 Ex.PW-20/A, by Const.Damodar PW-20.

3. ASI Om Prakash PW-16, and Const.Ashok PW-13, went to the spot and saw the dead body of a man lying in a pool of blood, having cut marks on the chest.

4. Inspector Rajinder Singh PW-24, then posted as the SHO of PS Punjabi Bagh also received the information and he too proceeded to the spot and joined ASI Om Prakash and Const.Ashok Kumar.

5. Inspector Rajinder Singh PW-24, prepared the rukka recording that a dead body, identified as that of Jarnail Singh, has been recovered from the spot; and forwarded the rukka through ASI Om Prakash for registration of a FIR. ASI Sultan Singh PW-14, received the rukka and registered the FIR Ex.PW-14/B at 1:30 PM under Section 302 IPC. Const.Sheesh Ram was immediately sent with a copy of the FIR for being delivered in the office of the Metropolitan Magistrate concerned.

6. At the spot, Inspector Rajinder Singh PW-24, prepared the site plan Ex.PW-24/B. A stone stained with blood, control earth and earth stained with blood were seized vide seizure memo Ex.PW-19/A; the seizure whereof was witnessed

by SI Rajbir Singh PW-19 who had also joined the investigation in the meanwhile.

7. Const.Jeevan PW-10, a photographer, was summoned to the spot who took 11 photographs of the site, being Ex.PW-10/A1 to Ex.PW-10/A11; negatives whereof are Ex.PW-10/B1 to Ex.PW-10/B11.

8. Information was conveyed to the family members of the deceased, whose identity was known to the police as disclosed by Bhagat Ram PW-2.

9. Anil Kumar PW-1, the brother of the deceased reached the site and reconfirmed that the deceased was his brother and was named Jarnail Singh.

10. The body was sent to Sanjay Gandhi Memorial Hospital for autopsy, where next day, i.e. 9.8.2003, Dr.V.K.Jha PW-11, conducted the post-mortem and prepared the post-mortem report Ex.PW-11/B. The post-mortem report records the following injuries on the deceased:-

“Obliquely placed stab incised wound over front of left side chest size 2.5 cm x 1.5 cm x chest cavity deep, upper and inner end was acute, lower and outer end was blunt situated 2 cm left anterior midline and 23 cm below the clavicle blood clots were present on the margin upon discussion of this injury it was observed that track perforates skin, muscles, cut fifty rib and perforates pericardium and penetrate left ventricle. Size over left ventricle was 1.8 cm x 6 cm x left ventricle cavity deep. The track directed front to back, left to right and slightly downwards. Total length of track was 5 cm. Entire track was full of infiltrated blood and blood clots. Head and neck

structure was intact. Chest cavity left side containing about 2.5 liter of blood. Fifth rib was having cut and blood clot. Other abdominal structure were normal.”

11. It was opined that injury was ante-mortem and that death was due to shock and haemorrhage as a result of stab injuries on the chest. It was further opined that the injury was sufficient to cause death in the ordinary course of nature.

12. After the post-mortem, the blood gauze was preserved. The blood stained clothes of the deceased and a wrist watch on the wrist of the deceased were handed over by him to Inspector Rajinder Singh PW-24, who recorded the said fact in the memo Ex.PW-17/A.

13. The wife of the deceased Smt.Sonu Devi PW-3, informed the police that her husband was employed at the Ordnance Depot, Shakur Basti and used to leave his house at around 7:30 AM to report for work and that, as per his daily routine, on 8.8.2003 left the house at 7:30 AM to report for duty and that when he left the house he was carrying with him a black coloured bag which contained a comb, his glasses, his tiffin, his identity card and a few other papers. She informed that her husband was carrying about Rs.100/- with him in a wallet.

14. There being no eye witnesses and no other clues being available to the police, the investigation could not proceed ahead till 2 days later, when on 10.8.2003, the appellant Satpal

Singh Bedi along with two other persons, namely Sushil and Sunil were apprehended by the police in FIR No.430/2003 PS Paschim Vihar and made disclosure statements Ex.PW-22/A to Ex.PW-22/C to Inspector Jagdish Meena, the additional SHO of PS Paschim Vihar. In the disclosure statements, the appellant, Sushil and Sunil disclosed to the police of their involvement in the murder of Jarnail Singh; the murder being committed while robbing Jarnail Singh. As per the police personnel of PS Paschim Vihar the shirt worn by the appellant and the shirt worn by co-accused Sushil were stained with blood and the same were seized vide seizure memo Ex.PW-21/C and Ex.PW-21/B.

15. This information was conveyed to the SHO of PS Punjabi Bagh. An application was filed in the Court of the learned Metropolitan Magistrate and police remand was obtained to interrogate the appellant, Sushil and Sunil pertaining to the murder of Jarnail Singh.

16. Sushil made a disclosure statement Ex.PW-22/C that he had hidden the dagger with which the deceased was murdered and that he could get the same recovered. He led the police to a wall near Mangol Puri Station and dug out a dagger which was seized vide Ex.PW-4/B and a sketch thereof Ex.PW-4/A was prepared. The seizure was witnessed by Dilweshwar PW-4, a public man. The dagger was stained with blood.

17. Appellant Satpal made a disclosure statement Ex.PW-

22/A that the bag, the tiffin box and the contents of the bag namely a pen, spectacles and other articles in the bag were kept by him in his house. He led the police to his house at Peera Garhi and produced the bag and the tiffin box. From the bag the identity card of the deceased, certain prescriptions pertaining to medicine purchased by the deceased, a pair of spectacles and a pen were recovered. The same were seized vide seizure memo Ex.PW-4/C. The bag was found to be stained with blood.

18. We eschew reference to the disclosure statement of Sunil for the reason he was a juvenile and pertaining to him, the matter was referred to the Juvenile Court.

19. A few days later, Inspector Devender Singh PW-5, went to the spot on 20.9.2003 and prepared the site plan to scale Ex.PW-5/A.

20. The bag recovered from the house of the appellant having blood stains thereon, the dagger, the clothes of the deceased and the gauze containing the blood sample of the deceased as also the shirts worn by the appellant and co-accused Sushil were sent for forensic examination and as per report Ex.PW-24/K were opined to be having human blood. The blood group on the clothes of the deceased was detected as of group 'B'. On all other objects the blood group could not be detected.

21. A few days later the dagger which was recovered at

the instance of co-accused Sushil was sent for opinion to Dr.V.K.Jha PW-11 who opined vide report Ex.PW-11/E that the injuries on the deceased could have been caused by the dagger or similar such weapon.

22. Armed with the aforesaid investigation a charge sheet was filed against the appellant and co-accused Sushil for having murdered Jarnail Singh. Sushil was also charged with the offence punishable under Section 25 of the Arms Act.

23. At the trial, the wife of the deceased Sonu Devi PW-3 deposed that her husband, as usual had left the house to report for work at the Ordnance Depot, Shakur Basti at 7:30 AM on 8.8.2003 and was carrying with him a black coloured bag containing a comb, his glasses, tiffin, identity card and other documents. She deposed that her husband was carrying a purse in his pocket having about Rs.100/-. The brother of the deceased namely Anil Kumar was examined as PW-1 who also deposed that his brother left the house at 7:30 AM to report for duty and that when he left the house, he was carrying with him a black coloured bag containing his identity card and a tiffin and a few other documents.

24. We are pained to note that the learned public prosecutor has not bothered to get identified from the two witnesses the bag, the tiffin box and other articles recovered from the house of the appellant; as belonging to the deceased.

25. Dilweshwar PW-4 deposed that on 8.8.2003 he was present at the bus-stop Peera Garhi and the police requested him to join in an investigation. He volunteered. Sushil took the police to a railway track under a bridge and got recovered a knife which was seized vide seizure memo Ex.PW-4/B and he signed thereon at point A. The sketch Ex.PW-4/A thereof was prepared. Thereafter they went to the house of the appellant at Peera Garhi Camp and the appellant took out a bag from which one identity card Ex.P-3, a tiffin Ex.P-2 and other articles Ex.P-4 (collectively) were recovered. He deposed that the same were seized vide seizure memo Ex.PW-4/C and he signed the same at point A.

26. He was cross examined at length. Save and except giving suggestions that he deposed falsely, which he denied, nothing of material significance was put to him during cross examination save and except to question his antecedents by putting questions that there were criminal cases pending against him and hence he was deposing at the behest of the police. He denied the same. We note that no specific criminal case pending against him was suggested to him.

27. Since only human blood, without identification of the blood group thereon was detected from the bag which was recovered from the house of the appellant and since only human blood was detected from the shirt worn by the appellant as also

the shirt worn by co-accused Sushil, without identification of the blood group thereon and since the knife recovered at the instance of co-accused Sushil was detected with human blood without identification of blood group thereon, the learned Trial Judge held that said objects do not connect the appellant and co-accused Sushil with the crime. However, with respect to the recovery of the bag of the deceased, the spectacles of the deceased, the identity card of the deceased and other papers of the deceased from the bag which was recovered from the house of the appellant and since the appellant gave no explanation as to how the same reached his house, the learned Trial Judge has held that the same was sufficient evidence to connect the appellant with the offence and hence the appellant has been convicted for the offence of murdering Jarnail Singh. Since a knife was recovered at the instance of co-accused Sushil, though not linked as the weapon of offence, the knife being of a kind which attracts the provisions of the Arms Act 1959, Sushil has been convicted for the offence punishable under Section 25 of the Arms Act 1959.

28. Since the State has not filed any appeal pertaining to Sushil's acquittal for the offence of murder and Sushil having not filed any appeal, probably for the reason he underwent imprisonment for a term in excess of what has been imposed upon him, we need not discuss the evidence pertaining to

Sushil.

29. Pertaining to the appellant, the only evidence was of the recovery of the belongings of the deceased from his house.

30. Where a person is found in possession of the fruits of a crime and unless he explains as to how he came into possession thereof, two inferences can be drawn by the Court. Firstly that somebody sold or gave the same to him and secondly he removed them while committing the crime. Both would be and indeed are within the personal knowledge of the possessor. The prosecution has no means to ascertain his knowledge. To break the impasse, based on prudence, the test evolved by the Courts is that if the objects/articles are recovered soon after the crime is committed and the nature of the object/article is not such which is expected to be purchased and sold freely in the market or the value thereof is such that the person from whom it is recovered has no means to purchase the same, an inference can be drawn that he is the author of the crime and that the articles recovered are the fruits of the crime committed by him.

31. In the instant case, as noted above, the public prosecutor was negligent in not getting identified the objects recovered from the house of the appellant as belonging to the deceased; in that, neither the wife nor the brother of the appellant were questioned regarding the identity of the said

objects. But, what has proved fatal for the appellant, indeed is highly fatal, that the identity card which has been recovered is proof of the fact that the same belonged to the deceased. An identity card speaks for itself. It contains the photograph of the person whose identity it is supposed to identify. Add thereon the medical prescriptions in the name of the deceased. The same evidence, that they belonged to the deceased. Now, an identity card and medical prescriptions are not bought and sold in the market. Thus, in the absence of the appellant explaining as to how the identity card of the deceased and the medical prescriptions of the deceased reached his house, the irresistible conclusion would be that they fell into the hands of the appellant when he robbed the deceased who had been rendered helpless when fatally stabbed in the chest.

32. A feverish attempt was made by urging that the same could be planted.

33. If the police had wanted to plant something on the appellant, the golden opportunity for the police was to remove the watch of the deceased when they recovered the dead body and plant the same upon the appellant. The argument made by learned counsel for the appellant is based on the assumption that the police had recovered the identity card of the deceased and the medical prescriptions of the deceased from the spot or the person of the deceased; had not entered the same in a

recovery memo; and thereafter had planted the same on the appellant. Indeed, had the police been thinking of planting something, what better thing other than the watch was with the police for being planted.

34. We note that PW-4 has withstood the test of cross examination and has proved the recovery/seizure memo Ex.PW-4/C.

35. We find no merit in the appeal.

36. The appeal is dismissed.

PRADEEP NANDRAJOG, J.

ARUNA SURESH, J.

February 10, 2009
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