

Date of the order: 01.12.2009

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CRL.A. 226/2006

RAMVEER

..... Appellant

Through: Mr. S.K. Sood, Advocate

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr. O.P. Saxena, APP for State

CORAM:**HON'BLE MR. JUSTICE V.K. JAIN**

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

% **V.K. JAIN, J.(ORAL)**

1. This is an appeal against the judgment dated 8th February, 2006 and Order on Sentence dated 13th February, 2006 whereby the appellant was convicted under section 304 Part I IPC and was sentenced to undergo RI for 10 years and to fine of Rs.1000/- or to undergo SI for two months in default. The case of the prosecution, as set out in

the FIR is that the appellant Ramveer took the deceased Chander Pal with him on 3rd October, 2003 on the pretext of talking to him. While they were on the street, an altercation took place between the appellant and deceased Chander Pal. The cause of the altercation was the allegation of the appellant that the deceased was responsible for the wife of the appellant running away from the house. This is the case of the prosecution that during altercation the appellant pushed the deceased on the heap of 'Rodi' lying at the spot as a result of which he fell down. Thereafter, the appellant started hitting him with a 'Fatta' lying on the spot and caused 3 injuries to him, as a result of which he became unconscious and was declared brought dead, when taken to the hospital.

2. The prosecution examined 22 witnesses in support of its case whereas the two witnesses were examined in defence.

3. The complainant Smt. Kalpana Devi wife of the deceased Chander Pal came in the witness box as PW-1 and staged that about 3-4 days before Diwali the appellant had

lunch in their house. The appellant wanted her husband to come for searching a job to which the deceased refused and thereupon the appellant took him forcibly and caught hold of his hand. Some construction work was going on near their house. The appellant took up a wooden plank 'Fatta' and gave 2-3 blows on the head of her husband who fell down on the ground and became unconscious.

4. PW-5 Mukta has stated that on 3rd November, 2003 at about 2.30 P.M. she saw the appellant giving 'Fatta' blows to the deceased Chander Pal though it was given only once.

5. Learned counsel for the appellant, under instructions from the appellant, states that considering the evidence produced by the prosecution, he does not contest the appeal on merit of the conviction and only seeks reduction of sentence. He further states that the appellant has already spent about 7 years in jail and, therefore, his sentence may be reduced to the period already undergone by him.

6. A perusal of the record would show that the appellant was arrested on 4.11.2003. Learned counsel for the

appellant states that the appellant was not granted bail either during trial or during pendency of this appeal. The appellant, thus, spent more than six years in jail.

7. Keeping in view the facts and circumstances of the case, including that the blows to the deceased were given, pursuant to an altercation which took place between the appellant and the deceased and also taking into account the fact that it was not a pre-planned crime and the plank (Fatta) used by the appellant for giving injuries to the deceased was lying on the spot and was picked up from there, while maintaining the conviction of the appellant under section 304 part I IPC, he is sentenced to undergo RI for 7 years and to pay fine of Rs.2000/- or to undergo SI for one month in default. The appellant will be entitled to benefit of Section 428 Cr.PC. One copy of this order be sent to the jail superintendent for information of the appellant and for record.

V.K. JAIN,J

DECEMBER 01, 2009
RS