

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 06th April, 2010*

+ **Crl. A. No. 537/2008**

RAVI SHANKAR Appellant
Through: Mr.Bhupesh Narula, Advocate

versus

THE STATE (NCT OF DELHI) Respondent
Through: Ms.Richa Kapoor, A.P.P.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

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

PRADEEP NANDRAJOG, J. (Oral)

1. Vide impugned judgment and order dated 20.11.2007, the appellant has been convicted for the offence punishable under Section 302 IPC pertaining to the death of Dhan Devi, wife of Brij Mohan. The appellant has also been convicted for the offence punishable under Section 307 IPC pertaining to the injuries caused on Asha, Payal, Monu, Kuppai, Meenu, Lala Ram @ Brij Mohan, Kushal and Baby. The appellant has been acquitted for the offence punishable under Section 323 IPC pertaining to simple injuries caused on the person of Rahul.

2. Vide order on sentence dated 23.11.2007, the

appellant has been sentenced to undergo imprisonment for life pertaining to the offence of having murdered Dhan Devi. For the offence punishable under Section 307 IPC, the appellant has been sentenced to undergo imprisonment for a period of 10 years. It has been directed that the appellant shall not be released from jail before expiry of 20 years.

3. As per the prosecution, the appellant was the younger brother of Brij Mohan @ Lala Ram. The two brothers were having a dispute with respect to some property and to seek vengeance against Lala Ram, on 16.08.2003 at about 10:00 P.M., the appellant went to the residential quarters of Lala Ram and when his son Rahul prevented the appellant from committing an offence, he pushed Rahul who sustained simple injuries. Thereafter, the appellant indiscriminately threw kerosene oil in the room where Lala Ram, his two wives Dhan Devi and Kuppai as also the family members of Lala Ram were present. The appellant threw a burning match stick and bolted the door from outside. The door was broken open. The injured were removed to the hospital where Dhan Devi died. Others who had suffered burn injuries were given medical treatment.

4. Let us pen profile the persons who sustained injuries, in relation to the extent of burn injuries, as recorded on their MLCs. The same is as under:-

Srl. No.	Patient's Name and age	MLC	Particulars of injuries	Nature of injuries
1.	Asha d/o Brij Mohan @ Lala Ram aged 14 years	Ex.PW-13/A	C/o Approx. 5% burn of TBSA; when someone threw kerosene oil and lighted their house today in JJ Colony, Wazirpur.	Simple
2.	Payal d/o Raju aged 06 months	Ex.PW-13/B	C/o Approx. 10% burn; when someone threw kerosene oil on her in her residence.	Simple
3.	Monu s/o Brij Mohan @ Lala Ram aged 15 years	Ex.PW-13/C	C/o Alleged history of burns approx. 15% TBSA when someone threw kerosene and tried to burn him at his residence.	Simple
4.	Kuppai w/o Brij Mohan @ Lala Ram aged 50 years	Ex.PW-13/D	C/o Alleged history of someone throwing kerosene and trying to burn her alive at her residence approx. 18% burns TBSA.	Simple
5.	Meenu d/o Brij Mohan @ Lala Ram aged 12	Ex.PW-13/E	C/o Approx. 10% burn TBSA; when	Simple

	years		someone threw kerosene and tried to burn her alive.	
6.	Rahul S/o Ravi aged 10 years	Ex.PW-13/F	Alleged history of assault being assaulted by multiple assailants at wazirabad JJ Colony as told by patient himself. C/o (i) 1 cm scalp CLW occipital region. (ii) Multiple abrasion (R) anterior superior iliac supine.	Simple
7.	Brij Mohan @ Lala Ram S/o Het Ram aged 50 years	Ex.PW-13/G	C/o Approx. 9% burn; when someone threw kerosene on him and tried to burn him alive at his residence.	Simple
8.	Kushal s/o Raju aged 2 years	Ex.PW-13/H	C/o Approx. 63% burns TBSA; when someone threw kerosene on his house and tried to burn him alive at JJ Colony Wazirpur.	Simple
9.	Baby w/o Raju aged 21 years	Ex.PW-13/I	C/o Approx. 71% burns; when someone threw	Dangerous

			<i>kerosene oil on her house and tried to burn her alive at JJ Colony in Wazirpur.</i>	
10.	<i>Dhan Devi w/o Brij Mohan @ Lala Ram aged 37 years</i>	<i>Ex.PW-13/J</i>	<i>C/o Approx. 81% TBSA burn; when someone threw kerosene and tried to burn their house.</i>	<i>Unfit for statement up till 18.08.2003 and later expired on 25.08.2003</i>

5. Suffice would it be to record that Asha daughter of Lala Ram has appeared as PW-10. Monu son of Lala Ram has appeared as PW-14. Kuppai, the second wife of Lala Ram has deposed as PW-7. Meenu daughter of Lala Ram has deposed as PW-12. Lala Ram@ Brij Mohan has deposed as PW-4 and Baby wife of Raju who is the son-in-law of Lala Ram has deposed as PW-11.

6. All the prosecution witnesses have corroborated each other as regards what transpired on the unfortunate day and have deposed that in a fit of rage the appellant threw kerosene oil inside the room where all were present and set the room on fire resulting in Asha, Payal, Monu, Kuppai, Meenu, Lala Ram, Kushal, Baby and Dhan Devi receiving burn injuries. All have deposed that prior thereto the appellant pushed his son Rahul who sustained simple injuries.

7. The presence at the spot of PW-4, PW-7, PW-10,

PW-11, PW-12 and PW-14 can hardly be disputed for the reason each one of them has received burn injuries as reflected in their respective MLCs.

8. The only question which we need to decide is whether the version of the appellant that there used to be a fight between the two wives of Lala Ram and during one such fight Kuppai did the drastically act has to be believed.

9. The learned trial Judge has discussed this aspect of the matter in paragraphs 27 to 30 of the impugned decision. The learned trial Judge has found an inconsistency in the defence raised. Whereas, to Lala Ram @ Brij Mohan suggestion put was that there was a quarrel between him i.e. Lala Ram and his two wives and that Dhan Devi herself poured kerosene on her and lit the match stick herself, to Kuppai PW-7 suggestion put was that Lala Ram had set Dhan Devi on fire. Suggestion put to PW-10 and PW-11 was that there was a dispute going on between the deceased and Kuppai and that the fire had been lit by Lala Ram. Suggestion put to PW-14 was that Lala Ram was under the influence of liquor and had started the fire.

10. Having perused the testimony of the eye-witnesses and having noted all and summary defence raised by the appellant and the inconsistency in the defence raised from time to time, we concur with the view taken by the learned

trial Judge that the prosecution has successfully established its case save and except pertaining to the simple injuries caused on Rahul.

11. We concur with the verdict of the guilt pronounced by the learned trial Judge.

12. On the issue of sentence as noted above, the learned trial Judge has held that the appellant should not be released from Jail before expiry of 20 years.

13. In respect of the sentence, it may be noted that as deposed to by Pinky, the brother of the appellant and Lala Ram, there appears to be some dispute in respect of property No.D-624/2, J.J. Colony, Wazirpur, Delhi. It also appears that Lala Ram @ Brij Mohan was in occupation of an area in excess of his entitlement and on said count, the offending act in question was committed by the appellant.

14. From the testimony of Pinky, it is apparent that Lala Ram @ Brij Mohan, the eldest brother had usurped a portion far in excess of his share in the joint property belonging to the three brothers.

15. Under the circumstances, we are of the opinion that in respect of sentence, the direction issued by the learned trial Judge that the appellant should not be considered for being released before 20 years needs to be set-aside with a clarification that the issue of premature release shall be

decided by the State as per its executive policy.

16. The appeal stands disposed of maintaining the conviction of the appellant as also the imposition of the sentence to undergo imprisonment for life as also sentence imposed for the offence punishable under Section 307 IPC, but we set-aside the direction of the learned trial Judge qua premature release and substitute the same as per the preceding para.

17. Since the appellant is in Jail, a copy of this order be sent to the Superintendent, Central Jail, Tihar for being supplied to the appellant.

PRADEEP NANDRAJOG, J

SURESH KAIT, J

APRIL 06, 2010
'nks'