

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

+ **CRIMINAL APPEAL No. 787/2012**

Reserved on: 7th January, 2013
% Date of Decision: 25th April, 2013

RAMESH KUMAR Appellant
Through Mr. Bhupesh Narula, Advocate.

Versus

THE STATE (GOVT. OF NCT) DELHI ...Respondent
Through Ms. Richa Kapoor, APP for the State.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

SANJIV KHANNA, J.:

The appellant Ramesh Kumar impugns his conviction under Section 302 and 307 of the Indian Penal Code (IPC) vide judgment dated 23rd November, 2011, for burning deceased Renu to death and causing injuries to her mother Geeta on 31st March 2006. By order of sentence, on the same day, he has been sentenced under Section 302 IPC for life imprisonment and fine of Rs 5,000/-, in default of which, he shall undergo simple imprisonment for six months. For the offence

under Section 307 IPC, he has been awarded rigorous imprisonment for ten years and fine of Rs 2,000/-, in default of payment of which, he shall undergo simple imprisonment for three months. He has, however, been acquitted of the charge under Section 376 IPC by the Trial Court.

2. The prosecution case goes as under: that on 31st March, 2006 at 1.15 A.M. it was reported to the PCR (vide DD No. 48A) that Jhuggi No. W-65/3 in F Block, Indira camp No.3, Vikas Puri had caught fire. ASI Nand Ram (PW- 23) and Ct. Ashok Kumar (PW-25) reached the spot and learnt that the injured had been taken to the DDU Hospital by PCR van. The rear portion of the first floor of the jhuggi was visibly burnt and there was smell of petrol. In the hospital, peculiar facts emerged as Geeta Devi (PW-1) made a complaint (Ex.PW-1/A) against her son-in-law, husband of her elder daughter Kiran and the appellant herein. She had alleged that the appellant had maintained illicit relations with PW-1's younger daughter Renu. The appellant and Renu had a son. Recently, Renu's marriage was fixed with a third person and the appellant was discontent with the said fact. She believed that it was the appellant who had committed this crime as he was seen in the locality before the incident. From the spot, burnt mattress, clothes, bamboo stick, a plastic bottle containing petrol were seized. The appellant was ultimately arrested along with three wheeler scooter No.

DL-IRH-1966 and a match box were found in his possession. On 11th April, 2006 injured Renu expired and Section 302 IPC was added.

3. Two inter-connected issues arise for consideration. Firstly, whether the deceased Renu and Geeta (PW-1) had suffered accidental burn injuries or it is a case of homicidal death and burn injuries were inflicted on them. The second question is whether the appellant is the perpetrator and had caused the said burn injuries.

4. The burn injuries suffered by Renu were proved by Dr. Yogesh Gupta (PW-14), who had examined her when she was taken to Deen Dayal Upadhaya Hospital. She had superficial to deep burns over abdomen, bilateral upper limbs, lower face, neck region, bilateral lower limbs, whole back including gluteal and perineal region and lower chest. Her MLC was prepared by PW-14 was marked Exhibit PW-14/A. The said MLC records that Renu had 85-90% burns which were allegedly caused when the house/jhuggi caught fire.

5. PW-14 has further deposed that she was seen by the DOD, Plastic Surgery and then referred to Safdarjung Hospital for further management. Renu succumbed to her injuries and expired in Safdarjung Hospital on 11th April, 2006 at 12.15 P.M. Her post-mortem was conducted on 12th April, 2006 by Dr. Komal Singh, Chief

Medical Officer, Safdarjung Hospital (PW-24). As per the post-mortem report, there were deep thermal burns involving chest, face, back, both upper limbs, both lower limbs, sparing neck and chin and the lower area of legs. The burn areas were covered with granulation tissue and purulent infection. Cause of death was septicemia due to 95% ante mortem burns. Smell of kerosene was stated to be absent. The post-mortem report was marked Exhibit PW-24/A in the deposition of Dr. Komal Singh (PW-24).

6. Dr. Yogesh Gupta again deposed as PW-19 and proved MLC of Geeta Devi (PW-1), which was marked Exhibit PW-19/A. Geeta was examined by Dr. Swati Aggarwal, who had however left the services. Dr. Yogesh Gupta identified and recognized the signature and handwriting of Dr. Swati Aggarwal as he had seen her writing and signing. The MLC (Exhibit PW-19/A) delineates that there were 30% to 50% burns on the body of Geeta, who was brought at 2.25 A.M. in a PCR van. The MLC records that Geeta had allegedly suffered the burns when the house/jhuggi caught fire. Geeta was subsequently referred to Safdarjung Hospital and was treated there, as per the admission and discharge records Exhibit PW-27/A. The said discharge record mentions that Geeta had suffered 40% thermal burns and was discharged on 9th April, 2006. The record was proved by Dr. Perna

Nembang (PW-27), who identified the signatures and handwriting of Dr. Harish Gundiya.

7. Two other family members Inderjeet (PW-9), aged 8 years who is also the son of the appellant and Rupesh (PW-5), brother of Renu and son of Geeta, aged 14 years had also suffered injuries. In their cases, the MLCs were not prepared and what we have on record is the casualty card Exhibit PW-26/A, which mentions that Inderjeet (PW-9) had suffered superficial deep burns on abdomen, while Bhupesh (sic Rupesh) (PW-5) had suffered superficial and deep burns on face and hand.

8. Geeta (PW-1), Renu, the deceased, Rupesh (PW-5) and Master Inderjeet (PW-9) who had given the statement without oath, have stated that on the fateful night the four of them were sleeping in a room on the first floor of the jhuggi when they got burnt. PW-1 has deposed that four of them had gone up to sleep at 11 P.M. and at 1.15 A.M. they found that there was a fire in the portion of the jhuggi where they were sleeping. PW-1 thereupon raised alarm. PW-1 has further stated that in the fire, two gaddas, one shawl, one chunni and one pillow were partly burnt. In addition, the clothes which were lying on the bed were also partly burnt. These were produced and identified by PW-1 and were marked Exhibit P-1. PW-1 has deposed that her son Mukesh

(PW-2) along with his wife had slept in the other portion of the jhuggi on the first floor.

9. Mukesh (PW-2) son of Geeta and brother of Renu has deposed that he was sleeping in a separate room on the first floor of the jhuggi and at about 1.15 A.M. heard noise of his mother and sister Renu and went to their room. He saw there was fire in their room and her sister and mother had received burn injuries. He extinguished the fire by pouring water on them. He has deposed on seizure of the burnt clothes, gaddas, etc. vide seizure memo Exhibit PW-2/A which was signed by him at point 'A'. What is important and relevant in his deposition is the fact that one plastic bottle containing petrol and one bamboo danda (stick) was found on the wall of the park next to the jhuggi. PW-2 has deposed that the plastic bottle and the stick were seized and taken into possession by the investigating officer vide memo Exhibit PW-2/B, which was signed by him at point 'A'. The plastic bottle with petrol before the court was marked Exhibit P-2 and the stick was marked Exhibit P-3.

10. Hari Mandal, husband of Geeta and father of Renu had deposed as PW-4. He was a truck driver and has stated that he was sleeping on the ground floor and Renu, Geeta (PW-1), Rupesh (PW-5) and Inderjeet (PW-9) were sleeping on the first floor. Mukesh and his wife

were sleeping in a separate room in the first portion of the first floor. There was a fire in which Renu, Geeta, Rupesh and Inderjeet sustained injuries and they were taken to hospital. He was cross-examined by the Additional Public Prosecutor on the ground that he was resiling. He deposed that there was smell of petrol in the room, which was on fire. In the cross-examination by the appellant, he has stated that there were two rooms on the first floor and the first room was occupied by his son and wife. The back room was also used as kitchen and food was cooked there on cooking gas. He has accepted as correct that stove was used for cooking as and when gas was exhausted. There was a ventilator in the said back room of the size of 1 ½ feet without any wooden pane. He has accepted as correct the suggestion given by the appellant that nothing could be thrown into the room through the ventilator by a person standing on the ground floor but volunteered that anything could be thrown inside the room by climbing the chajja (balcony) of the adjoining temple. He has further deposed that there was a parapet wall of the temple on the back side. Height of the said parapet of the temple was 4 ½ feet and it touched their house/jhuggi. The ventilator was located in the middle portion of the wall of the jhuggi.

11. Presence and seizure of the plastic bottle with petrol (Exhibit P-2) and the bamboo stick (Exhibit P-3) from the wall behind the house/jhuggi has been testified by the police witness Inspector Lalit Kumar (PW-17), who was in charge of crime team and had inspected the spot, where they found two burnt beds, grey colour shawl, burnt clothes, chunni of red colour, plastic bottle with blue cap containing inflammable liquid and one half bamboo stick. Recovery of the said articles is also mentioned in Exhibit PW-17/A, the crime team report Ex. PW-17/A was prepared on 31st March, 2006 between 6.00 to 6.30 A.M. It is specifically recorded in this report that a plastic bottle (Exhibit P-1) and half bamboo stick (Exhibit P-2) were found lying on the wall of the park behind the jhuggi. The said witness, however, was not able to depose in the cross-examination about the distance between the boundary wall and the window/ventilator of the house/jhuggi. He deposed that they had taken photographs but this was not mentioned in Exhibit PW-17/A. The photographs were proved by Head Constable Jaiveer (PW-18) and the positives were marked Exhibit PW-18/P7 to P-12. In the cross-examination, he identified Exhibit PW-18/DX-1 which shows the back side of the house/jhuggi from where the window/ventilator could be seen. Examination of the photographs would reveal that the fire had not engulfed the entire room. It was

confined and restricted to a specific portion/area. In the same room, there was a cooking gas cylinder which remained unaffected. Even the surrounding walls and the area around the bed do not have any signs to show that there was fire. This is important and relevant and has to be duly considered.

12. SI Nand Ram (PW-23) has similarly deposed that they reached jhuggi after recording DD No. 48A at about 2.05 A.M. They found burn marks on the first floor rear portion. Fire had already been extinguished and Geeta (PW-1) and Renu had already been taken to the hospital in a burnt condition. They seized the two mattresses in burnt condition, one half burnt shawl, one partly burnt pillow and some burnt clothes. From the rear side of the aforesaid house at the wall of the park, one plastic bottle and one bamboo danda, which was partly torn (sic. split), were seized vide seizure memo Exhibit (PW-2/G). In his cross-examination, PW-23 has stated that the height of the first floor from the ground level was 9 to 10 feet and he had inspected the rear side of the jhuggi which had a temple. The wall of the temple was adjacent to the wall of the jhuggi, though he had not visited the temple itself.

13. Constable Ashok Kumar (PW-25) had visited the crime spot immediately after DD No. 48A was recorded and had deposed on

identical lines about seizure of burnt mattresses, one shawl, clothes and pillow. He has deposed that from the rear side of the jhuggi, on the wall, one plastic bottle having some petrol and bamboo stick which was split were found and seized. He identified the seized material. In the cross-examination, however, the said witness could not depose regarding the height of the ventilator and the wall etc. He has deposed that the correct height of the boundary wall of the temple was 2 ½ to 3 feet and the ventilator of the jhuggi was at the height of about 22 feet. This statement of PW-25 is being examined by us below with reference to the site plan Exhibit PW-21/A.

14. We have two site plans. Exhibits PW-21/A is a scaled site plan prepared by SI Mahesh Kumar (PW-21), Draftsman, Crime Branch. The second site plan is a visual site plan without scale Exhibit PW-23/D which was prepared by SI Nand Ram (PW-23). We have already recorded that PW-23 has deposed that one plastic bottle with blue colour cap having petrol and bamboo stick was seized from the wall. In site plan (Exhibit PW-23/D), reference is made at point 'C' to the ventilator which did not have any wooden pane or wire mesh and point 'D' to the wall from where the plastic bottle with petrol and bamboo stick were recovered. The site plan Exhibit PW-21/A is more elaborate and also has measurements. The slab of the first floor was at the height

of 130 cm. The wall on the back side was at the height of 150 cm. It is from this wall that the plastic bottle with petrol and bamboo stick was seized. Distance between the back room and the boundary wall is 58 cm. The photographs of the room show that there is a window or ventilator just next to the bed. The window had a grill but without any wire mesh or window pane. In fact, in one of the photographs one can clearly make out and see the wall on the back side, from the ventilator.

15. As per the FSL report (Exhibit PW-33/C) petrol was detected in the plastic bottle but petrol, kerosene oil, diesel oil or other could not be detected on the stick or the burnt cloth material/bed room. Petrol or gasoline is easily ignited and is extremely volatile. It evaporates at high temperatures interfering with ignition and spread of the fire. The flash point of gasoline or petrol is -45F. Lower flash point is an indication of how easily a chemical will burn. Such chemicals are highly inflammable and extremely hazardous. Kerosene, on the other hand, has a higher flash point of 100 to 162. Further, burning of hydrocarbon fuel in open air, as opposed to combusting in an engine or a burner like a camp stove, creates a more limited range of pollutants. The primary product of combustion is an engine or camp stove is carbon dioxide. Open burning, however, evaporates a portion of the unburned liquid as hydrocarbon vapour. Portion of the vapour is

partially burnt and cracked by the flame heat to produce carbon particles (soot) and smaller organic compounds (See '*Kirk's Fire Investigation*' by John De Haan and '*Arson Investigation*' by Dr. Henry Lee, Chief of the Connecticut State Forensics Laboratory, published by Prentice Hall, Inc).

16. From the aforesaid statements and facts, it is discernible that the deceased Renu, injured Geeta (PW-1), Rupesh (PW-5) and Inderjeet (PW-9) went to sleep on the first floor rear portion which has a ventilator. Outside the room, there is a wall of a temple and park. The height of the said wall is 150 cm, as per the site plan (Exhibit PW-21/A). The height of the ground floor ceiling/roof is 130 cm and the total height of the jhuggi is 205 cm. There is a window or ventilator at a distance of 58 cm from the boundary wall, which is about 69 cms and 52 cms in size. The case of the prosecution is that the fire was deliberately ignited and Renu and Geeta were burnt with the highly inflammable liquid, i.e., petrol is justifiably proved and established. The nature and type of burns noticed in the photographs suggest the same and it can be seen that the fire did not spread and engulf the entire room. The position of the bed just next to the ventilator/window and presence of a bottle with petrol on the boundary wall behind the jhuggi with a bamboo stick are clear indicators that it is a case of fire

which was deliberately and intentionally caused by a person standing on the said wall through the ventilator. There is no other reason for fire to take place at about 1.15/1.30 A.M. at night. It is highly implausible that at that time food was being cooked. The gas cylinder and gas stove are clearly visible in the photographs and had not been touched. The photographs clearly show that a specific portion was targeted by the person who had ignited the fire and was responsible for the said burn injuries. Thus, it is not a case of accidental fire, which engulfed and caused death of Renu and 40% burn injuries to Geeta (PW-1). It is a case where the fire was deliberately ignited by a third person with the help of petrol and bamboo stick.

17. The next question is whether the appellant was responsible for having caused the fire and the resultant injuries. We notice here that Geeta in her first statement (Exhibit PW-1/A) had implicated and pointed her finger at the appellant. Similarly, the deceased in her dying declaration (Exhibit PW-23/B) has implicated the appellant. However, in Exhibit PW-1/A and Exhibit PW-23/B it has not been averred that PW-1 or the deceased Renu had seen the appellant igniting the fire. PW-1, in her Court deposition, has not stated that she had seen the appellant causing the said fire. The present case, as noticed above, is of circumstantial evidence. To implicate the appellant, the

prosecution relies upon four circumstances or facts, namely, (i) strong motive which was a propelling factor resulting in the brutal attack; (ii) presence of the appellant at the scene of the crime at about 10.30 -11 P.M. on 30th March, 2006; (iii) conduct of the appellant after the occurrence and (iv) the manner and mode in which the offence was committed.

18. The appellant-Ramesh is the son-in-law of PW-1 Geeta as he was married to her daughter Kiran, who had appeared as PW-10. Kiran (PW-10) in her deposition, recorded on 26th October, 2009, has averred that she had married the appellant about 17 years back and had one son Inderjeet, who has appeared as PW-9. Inderjeet had also suffered minor burns and, as per the statement of PW-10, was residing with his grandmother PW-1. After about five years of marriage with Kiran (PW-10), the appellant left her and married one Manju. PW-10 then shifted to her mother's place. Later on, PW-10 again started living with the appellant. Renu had come and stayed with them at Ghaziabad as PW-10 was ill. Meanwhile the appellant had an affair with the deceased Renu and a child was born to them. Similar statement has been made by PW-1. She has deposed that her elder daughter Kiran used to remain ill and for this reason the appellant had requested her to send Renu to stay with them at Ghaziabad. Renu was

supposed to look after Kiran and had remained there for 2-3 months. Renu then informed her that Ramesh had sexual intercourse with her on several occasions during this period at Ghaziabad. She became pregnant and gave birth to a child. Renu and the child had stayed, for about 1 ½ months, in the house of the appellant, after the delivery. Thereafter, the appellant dropped Renu with the child at the house of PW-1. The appellant had visited the house of PW-1 on several occasions and had requested that Renu should come and stay with them but was refused. Because of blood relations, they did not file any complaint against the appellant. Recently, they had fixed marriage of Renu with one Rajesh, a resident of the same locality. The appellant Ramesh came to know about this and was angry. The prosecution has placed on record documents relating to birth of the child to Renu in form of Exhibit PW-13/A, which is the medical record from Guru Teg Bahadur Hospital, Shahdara relating to birth of the child. We have the DNA report of the child (Exhibit PW-6/A) which refers to the blood sample of the appellant and the blood sample of the child and, as per the report, the appellant is a biological father of the child of Renu. We need not dwell deeper on the said aspect. In the cross-examination of PW-1 by the appellant-Ramesh, suggestions give clear indication that the appellant accepts and admits that he is the father of the child born

to Renu. This fact factum is accepted and admitted by the appellant in his statement under Section 313 Cr.P.C. He has, however, averred that he did not have forced or illicit relations with Renu and never had sexual intercourse with Renu against her consent. He has accepted that Renu gave birth to a male child and she and the child had stayed at their house. He had borne the expenses for delivery of the child and this was because of the family fear, public insinuation and bad name. He has accepted as correct that, after 1 ½ months, Renu and the child shifted to reside in the house of Geeta (PW-1) at Delhi. He claims that the eldest sister of Renu, Durga was present when he accompanied them to the house of Geeta. He has stated that he came to know that Renu was not ready and willing to marry anyone. He has accepted as correct that his wife Kiran had stayed in the house of Mukesh (PW-2) for some time. He has stated that Geeta and her family had a grudge against him because Renu had refused to marry someone of their choice and had demanded that she (Renu) should be allowed to live with Kiran at their house in Ghaziabad. His wife Kiran had supported them and was against Renu's marriage against her wishes.

19. PW-2 and PW-4 have supported the prosecution case on the motive. In addition, we have the statement of Rajesh Kumar (PW-11), who has averred that he got engaged to Renu on 29th March, 2006 and

on 31st March, 2006 he came to know that Renu had been burned in jhuggi fire. In the cross-examination by the public prosecutor, he has stated that Renu had a child with his brother-in-law appellant-Ramesh and he had come to know later that the child was being kept by the appellant Ramesh.

20. From the aforesaid evidence, we have no hesitation or doubt in our mind that the appellant was a father of the child born to Renu. Renu had stayed with the appellant at Ghaziabad, when Kiran PW-10 was unwell. Renu got engaged to Rajesh (PW-11) on 29th March, 2006, i.e., one day before the occurrence in the intervening night of 30th/31st March, 2006. It is apparent and clear that the appellant was extremely agitated, loathful and could not accept the said position.

21. PW-1 has deposed that on 30th March, 2006 at about 10-11 P.M., she had seen Ramesh sitting in a TSR on the road outside camp No. 3 but she did not pay any attention to him, thinking that perhaps he may invite himself to the house. PW-2 Mukesh Kumar has stated that her mother PW-1 had told him about seeing the appellant Ramesh in the area, on a TSR prior to the incident. The aforesaid position is affirmed by Arvind Paswan (PW-3). He has stated that he knows the appellant Ramesh as the house of his in-laws was situated near PW-3's house and he had seen the appellant visiting them. It was navratras and he

had gone to Sanatan Dharam Mandir along with maternal uncle Lalit Paswan and Ram Raj Paswan in the evening of 30th March, 2006, when he had seen appellant Ramesh next to his TSR, under influence of liquor. He talked to him and wished him but the appellant was murmuring. As he did not support prosecution case as to what he was murmuring, he was cross-examined by the Public Prosecutor but this is not relevant. What is relevant and important is that Arvind Paswan (PW-3) has deposed that the appellant was present at the location in the evening of 30th March, 2006 and has corroborated the statement of PW-1 to the said effect.

22. Ram Raj Paswan appeared as PW-7 but turned hostile and has deposed that he did not know the appellant Ramesh. He, however, has accepted as correct that police had met him in connection with this case. On the night of 30th/31st March, 2006 11-11.30 P.M. he along with relative Arvind Paswan (PW-3) had gone to Sanatan Dharam Mandir and had returned back. He was cross-examined by the Public Prosecutor and in the cross-examination he has accepted that his statement was recorded by the police and he knew the family of Hari Mandal (PW-4). He accepted as correct that his brother-in-law Lalit Paswan worked as a Sewadar in the Mandir and had heard the noise at about 1.15/1.30 A.M. when he had seen Mukesh (PW-2) and other

people bringing down Renu and Geeta (PW-1) from the jhuggi in a burnt condition. Lalit Paswan appeared as PW-8 but did not recognize the appellant. However, he accepted as correct that he had seen a TSR outside on the road standing on a nala and had got up, at about 1.30 A.M., after hearing noise. A crowd had collected outside the jhuggi of Hari Mandal (PW-4). Four persons had got burnt. In the cross-examination by the Public Prosecutor he has accepted as correct that after closing of the Mandir, he, along with Arvind Paswan and Ram Raj Paswan, was returning and at that time Arvind Paswan (PW-3) had stated that the person sitting in the TSR was the son-in-law of their neighbour Hari Mandal (PW-4). He, however, has denied that the appellant Ramesh present in the court was sitting in the TSR. It is clear from the aforesaid depositions that the appellant Ramesh was found to be in the vicinity of the area from 11 P.M. onwards and was present in the area till late at night. The fact that the appellant remained with the TSR is corroborated by Anil Kumar (PW-12). He has deposed that TSR No. DL 1 RH 1966 was given on rent to appellant Ramesh. On 30th March, 2006, the appellant Ramesh took the TSR, as usual, at 8.00 A.M. but did not return it in the evening. Generally, the appellant would take the TSR at 8.00 A.M. every day and bring it back by the evening. On that particular day, the appellant

had telephoned and informed that he would not be bringing back the TSR in the evening as he was to go to a party. The appellant had said that he would bring the TSR on the next day but he did not return the TSR even on the next day. The appellant was arrested vide arrest memo PW-23/E on 31st March, 2006 at about 4.30 P.M. As already stated above, Geeta (PW-1) in her statement Exhibit PW-1/A had named the appellant, which had resulted in the registration of the FIR at about 5.15/5.30 A.M. on 31st March, 2006. It is apparent that the appellant was named as the suspect who was involved in the said offence. Appellant in his Section 313 Cr.P.C. statement has denied that he was arrested vide memo Exhibit PW-23/E but has not suggested anything regarding when and how he was arrested. Appellant was arrested in the presence of PW-2 Mukesh, who has signed the arrest memo.

23. This brings us to the statement of Kiran (PW-10), wife of the appellant. She has oscillated and repeatedly shifted her stand. In her examination in chief she initially deposed that on the day of jhuggi fire the appellant was present with her at their house in Ghaziabad. He had come back after work but she could not tell the time when he returned. In the cross-examination by the Public Prosecutor she has deposed that she had stated before the police that the appellant went to work at

about 8 A.M. on 30th March, 2006 and did not return till recording of her statement on 31st March, 2006. She had deposed that she had earlier stated different facts due to lapse of time. In her cross-examination by the amicus curiae for the appellant she again changed her stand and stated that on 30th March, 2006 at the time of fire, the appellant was with her at Ghaziabad. She has stated that Renu had refused to marry Rajesh (PW-11) but after persuasion had agreed to marry him. Noticing the oscillating stand and different/ contradictory versions given by PW-10, the court had put a specific question to her whether the appellant had returned back from work and which of her statements were correct. PW-10 then deposed that the appellant had returned back to house from work in the evening and was with her in the intervening night 30th/31st March, 2006. She has stated that he again went to work on 31st March, 2006 and when her statement was recorded, the appellant had gone to work and, therefore, she had stated that the appellant had not returned back till recording of her statement on 31st March, 2006.

24. PW-10, being the wife of the appellant, has tried to protect him though in between the truth got revealed and she could not hide the same. It is not possible to accept and believe that the appellant had gone to work on 31st March, 2006. The appellant at that time was

absconding. PW-10, it is apparent, being the sister of Renu and the daughter of Geeta, would have known about the occurrence. As already noticed above Geeta (PW-1) had implicated the appellant. Similarly, the deceased Renu had implicated the appellant in her dying declaration Exhibit PW-23/B. Anil Kumar (PW-12) has stated that the TSR was not returned by the appellant on 30th March, 2006. Appellant had informed him that he would be returning the TSR on the next day as he was going to a party on 30th March, 2006.

25. The statement of Kiran (PW-10) that PW-1 had to persuade Renu to get married to Rajesh does not show that Renu wanted to live with the appellant. Deceased Renu had given birth to a child fathered by the appellant. She knew the implications, complication and the difficulties. Renu's child remained in the house of the appellant and was residing with PW-10. PW-10's own child, Inderjeet (PW-9) was residing with PW-1.

26. From the aforesaid, it is discernible that the fire in question was not accidental but was deliberately ignited. The seized burnt articles and the photograph show that the fire was ignited at a targeted area with petrol being the accelerant. The fire did not spread because of the accelerant used. The deceased Renu and Geeta (PW-1) suffered extensive burn injuries in the said fire. A bottle with petrol (Exhibit P-

1) and bamboo stick (Exhibit P-2) were recovered from the wall behind the house/jhuggi. There was a ventilator on the back side of the house/jhuggi and the culprit/perpetrator had taken advantage of the wall, bamboo stick and the ventilator to cause burn injuries. The perpetrator was a person well conversant with the topography of the house and surrounding location, i.e., the wall, ventilator, room on the first floor and had knowledge where Renu and other family members used to sleep. He was aware that there was a ventilator without any window pane which could be accessed by standing on the wall. He knew about the location of the bed where Renu used to sleep. That the appellant is the said culprit has been established and proved beyond doubt as he was present in the area even late at night and was seen with his TSR by PW-1 and PW-3. He being the son-in-law of PW-1 was well conversant with the topography of the house, the adjacent wall and where Renu and others used to sleep. TSRs use gasoline or petrol as a fuel. The appellant was a TSR driver and had not returned the TSR and had absconded soon after the occurrence and was caught/arrested on 31st March, 2006 in the evening. Lastly, the prosecution has been able to prove strong and compelling motive, which propelled the appellant to commit the said crime. Renu had given birth to a child fathered by the appellant. The appellant and Renu also had sexual

relationship in spite of the fact that the appellant was married to the sister of Renu. Renu on 29th March had got engaged to a third person. The appellant, therefore, had serious objections and wanted Renu to reside with him. Only a person with motive or compelling objective and purpose would have acted and behaved in this predetermined and calculative manner.

27. In view of the aforesaid position, we feel that the prosecution has been able to prove and establish the case beyond doubt. When we read the entire circumstantial evidence, the chain becomes complete. Having regard to the accusation and the evidence available and proved, the same only points to the appellant as the perpetrator and excludes possibility of any third person's involvement.

28. Accordingly, we do not find any merit in the present appeal and the same is dismissed. Conviction and sentence of the appellant is maintained.

-sd-

(SANJIV KHANNA)
JUDGE

-sd-

(SIDDHARTH MRIDUL)
JUDGE

APRIL 25, 2013
VKR