

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

% *Judgment Reserved on: August 11, 2014*
Judgment Delivered on: August 19, 2014

+ **CRL.A.584/2013**

RAVINDER RANA Appellant
Represented by: Ms.Inderjeet Sidhu, Amicus Curiae.

versus

STATE THR.CBI Respondent
Represented by: Mr.R.V.Sinha and Mr.A.S.Singh,
Advocates for CBI.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

1. Ravinder Rana, Constable in CISF stands convicted for the murder of Constable T.Shankar and Constable R.Kannan and causing injuries to Constable Rajbir Singh, Constable Sunil Singh and Constable Bidesh Dutta by gunshot injuries from the service rifle of Constable Anoop Singh on the testimony of the eye witnesses and scientific evidence. He has been awarded imprisonment for life and fine of ₹15,000/- and in default of payment of fine to further undergo Simple Imprisonment for a period of one year for the offence punishable under Section 302 IPC; Rigorous Imprisonment for ten years and a fine of ₹10,000/- and in default of payment of fine to further undergo simple imprisonment for six months for offence punishable under Section 307 IPC and Rigorous Imprisonment for five years and a fine of

₹5,000/- and in default of payment of fine to undergo Simple Imprisonment for three months for offence punishable under Section 27 Arms Act.

2. Ravinder Rana assails the judgment on the ground that the genesis of the occurrence has not been examined by the learned Trial Court which would have led to the true facts being unravelled. In fact, even as per the prosecution case two separate incidents of shoot out occurred however, the learned Trial Court erred in treating them as one. The fire arm allegedly used in the commission of offence did not belong to Ravinder Rana and thus he was not connected with the same. As there is no direct evidence against Ravinder Rana he be acquitted of the charges framed.

3. In defence Ravinder Rana appeared himself as a witness and stated that he was working as a constable at Indian Embassy, Kathmandu. On January 18, 2005 while posted at Kathmandu at around 5.30 AM when he was in the toilet he heard the noise of the firing from the barracks. He immediately rushed to the barracks where he saw R.Kannan lying on the floor in a pool of blood and Anoop Singh firing upon T.Shankar with his rifle. He snatched the rifle from Anoop Singh. In the meantime Inspector B.K.Singh along with staff came to the barracks. When he informed the facts to Inspector B.K.Singh he did not believe the same and later appellant was arrested. According to him the incident was not seen by any other person except him. He also denied that any incident took place on the night of January 17, 2005 or that he made any complaint of misbehaviour by R.Kannan on January 17, 2005. Similar explanation has been rendered by him in his statement under Section 313 Cr.P.C.

4. A CBI team led by Shri Y.C.Modi, DIG was sent by the Central Government to the Embassy of India, Kathmandu, Nepal at around 10 hours

on January 18, 2005 pursuant to an information regarding shoot out at the Embassy of India. On reaching the premises it was revealed that about 5.30 hours on January 18, 2005 Constable/SG Ravinder Rana had shot two of his colleagues in the barrack of security guards and injured three constables. A complaint of Inspector Bijay Kumar Singh, PW-1 was handed over to the DIG Mr.Modi on which a case was registered vide RC.I(S)/2005-SCU.I/CBI/SCR.I/New Delhi under Sections 302/307 IPC.

5. Inspector Bijay Kumar Singh appeared as PW-1 and deposed that on January 17, 2005 he was performing his duties at the Indian Embassy, Kathmandu along with Shri Rathore whose duty was to depute security guards of CISF and check them while performing their duties. He also gave training to the constables and other subordinates. The contingents were posted on the main gate of Embassy, India House, Central School, night patrolling and Chancery. He deposed about the various duties assigned and according to which on January 17, 2005 Constables/SG R.Kannan and V.Z.Surkar were on duty from 2.00 PM to 8.00 PM at India House whereas Ravinder Rana and Surender Kumar were performing duties at the main gate of the Embassy. They came back to the barrack after finishing their duties on January 17, 2005 at about 10.00 PM. He along with P.S.Rathore and Ajeesh Kumar were in his room when Ravinder Rana came to his room and told that R.Kannan was abusing him in filthiest language. On this he along with Inspector Rathore and SI Ajeesh Kumar went to the barracks of constables where he found T.Shankar and R.Kannan sleeping in their quilts. Inspector Rathore awoke R.Kannan and asked him the reason for abusing Ravinder Rana. R.Kannan stated that on arrival to the barrack, it was dark as the light was switched off and others were sleeping. As he was going to

the bathroom to attend the call of the nature he struck against the wooden almirah which was kept in the barrack. There was loud noise and Ravinder Rana woke up. On this Ravinder Rana abused him first and in retaliation he also abused him. Inspector Rathore rebuked both of them and directed them to go to sleep telling them that the matter will be taken up in the morning. They came back to their rooms however, heard the voice of quarrel after ten minutes. When they again went back to the barracks R.Kannan, T.Shankar, Ravinder Rana and Rajbir Singh were standing and abuses were being exchanged between Ravinder Rana and R.Kannan. On this Inspector Rathore directed Rajbir Singh to collect all the constables in the recreational room where the three officers warned all of them to remain in discipline and then directed them to go to sleep. R.Kannan was repeatedly saying that he was not at fault, Ravinder Rana had abused him first and started quarrelling. So they sent R.Kannan to their room with a view to avoid further quarrel between Ravinder Rana and R.Kannan. On January 18, 2005 at about 5.00 AM when tea was served to him he told R.Kannan to go to his barrack and get prepared for the P.T. At about 5.30 AM he heard the noise of gun shots from the side of barrack of constables. He ran there and saw T.Shankar lying on the floor near the wooden almirah with gunshot injuries and bleeding. He also saw R.Kannan lying on the floor near fixed cupboard and bleeding from the injury caused due to the gun shot. Both of them were unconscious. Then he saw Constable Bidesh Dutta crying with pain as he received gunshot injury on his right foot, Constable Sunil standing there with injury on his hand and Constable Rajbir also injured. He noticed Constables V.S.Shulkar, Amit Rana, Anoop Singh and Madan Gauha standing near Ravinder Rana near the bed of Anoop Singh. On inquiry it

was informed that Ravinder Rana attacked R.Kannan and T.Shankar with a gun. The five injured were taken to hospital where T.Shankar and R.Kannan were declared brought dead and the three injured i.e. Rajbir Singh, Sunil and Bidesh Dutta were treated.

6. PW-2 Constable Anoop Singh whose rifle is allegedly used in the commission of offence deposed that at about 5.00 AM on January 18, 2005 all the constables had come back to the barrack after performing their duties and got checked arms and ammunitions from Kot In-charge Rajbir Singh and as per the rules were again issued rifle, ammunition and sixty cartridges i.e. three magazines with twenty cartridges. After coming to the barrack he kept his arms and ammunitions in the box of his bed and went to toilet. While he was brushing his teeth he heard the sound of fire. When he rushed to his barrack he found Ravinder Rana firing at T.Shankar. T.Shankar was trying to hide behind the wooden almirah and save himself however, Ravinder Rana fired 4-5 cartridges on T.Shankar and he fell down near the wooden almirah, badly injured. Blood was oozing out from his body. Thereafter he and Madan Guha present in the barrack tried to overpower Ravinder Rana. In the meantime, V.Z.Shulkar and Amit Rana also came. They also saw that R.Kannan was also injured, had fallen near the bed of Anoop Singh and was bleeding. He told Inspector Bijay Kumar Singh who came in the meantime that Ravinder Rana had fired R.Kannan and T.Shankar and had declared “*ENHONE MUZHE GALI DI ISLIYA MAINE ENKO MAAR DIYA AAB CHAHE FANSI HO JAYE*” and kept the rifle on his bed. He saw even Constable Bidesh Dutta crying because of injury on his right foot. Sunil Singh also suffered bullet injury and was bleeding. Rajbir Singh suffered injury on the left knee.

7. Before dealing with the testimony of this witness, it would be appropriate to discuss the testimonies of PW-4 Rajbir Singh, PW-5 Sunil Singh and PW-6 Bidesh Duatta, the three injured witnesses as according to Ravinder Rana he was the assailant and has falsely implicated Ravinder Rana. Rajbir Singh deposed that on January 18, 2005 he came back to the barrack after finishing his duties at 5.00 AM. He deposited his arms and ammunitions and got them reissued after making the entries. When he was preparing for P.T. at about 5.00/5.30 AM he heard the sound of a bullet and saw Ravinder Rana was having Insas rifle in his hand and fired upon R.Kannan. He saw R.Kannan fall down near the bed of Anoop Singh and was bleeding. Thereafter Ravinder Rana followed T.Shankar while firing upto the wooden almirah and fired 4-5 shots. T.Shankar fell on the floor and was bleedings from his injuries. In the meantime, he also felt some pain and sense of burning in his left knee and bleeding he saw that a bullet had passed after touching his left knee. He saw Anoop Singh and Madan Guha trying to overpower Ravinder Rana and Amit Rana and V.Z.Surlkar also helping them. He also saw Bidesh Dutta and Sunil Singh injured from the bullets fired from the rifle of Ravinder Rana. In the meantime, Inspector Bijay Kumar Singh with other officers came to the barrack. This witness also deposed that on January 17, 2005 at about 10.00-10.15 AM he heard noise outside the barrack when he reached outside he saw Ravinder Rana, T.Shankar and R.Kannan standing and R.Kannan and Ravinder Rana were exchanging abuses with each other.

8. Sunil Singh and Bidesh Dutta have also deposed on the same lines. The MLCs of Rajbir Singh Ex.PW-4/A, Sunil Singh, Ex.PW-5/B and Bidesh Dutta Ex.PW-27/DX corroborated the version of these witnesses who have

received bullet injuries. In the entire cross-examination of Rajbir Singh, Sunil Singh and Bidesh Dutta there is no suggestion that the actual assailant was Anoop Singh and Ravinder Rana has been falsely implicated. The version of injured witnesses is also corroborated by PW-3 Madan Guha who overpowered Ravinder Rana along with Anoop Singh and separated the magazine from rifle.

9. Rajbir Singh, Sunil Singh and Bidesh Dutta are injured witnesses whose presence on the spot is proved both by the documentary evidence and the fact that they received injuries. Thus their evidence cannot be brushed aside lightly. They have supported the prosecution case, corroborated the testimony of Anoop Singh and falsified the defence to Ravinder Rana.

10. The version of the prosecution witnesses is also corroborated by the testimony of PW-15 Dr.Pramod Shreshtha who conducted the post-mortem of Ct.T.Shankar and Ct.R.Kannan and the Ballastic expert PW-14 N.B. Bardhan. Dr.Pramod Shreshtha found the following external injuries on the body of T.Shankar:

“1. A circular, penetrating wound of 6 mm diameter and with abraded margins is over the left, anterior, lower chest. It is 22.5 inches from the plane of the head and 5 inches left of the midline. This wound has the characteristics of a rifled firearms entry wound.

2. An oval, penetrating wound of 1x0.5 cm is over the left, lateral abdomen, 27 inches from the plane of the head and 6.5 inches left of the midline and 1 inch superior to the left iliac spine.

3. An abrasion of 5 mm diameter is over the posterior aspect of the distal third of the right arm.

4. An oval penetrating wound of 2 x 1 cm and with abraded margins is over the posterior aspect of the distal third of the left

arm. This wound has the characteristics of a rifled firearm entry wound.

5. A laceration of 15 x 5 cm is over the posteromedial aspect of the left arm, over the proximal half of the arm.

6. An obliquely – placed laceration of 5 x 1.7 cm with the inferior end medial and with almost incised wound characteristics, is over the left back, with the superior end 15 inches from the plane of the head and 1 inches left of the midline.

7. An abrasion of 1 x 0.25 cm is 3.5 inches inferomedial to the superior end of injury No.6.

8. An abrasion of 0.5 cm in diameter is 3.5 inches inferior to injury No.7.

9. An abrasion of 1 x 0.7 cm is over the right back, 14 inches from the plane of the head and 2 inches right of the midline.

10. An abrasion of 1.5 x 0.7 cm is over the right back, 14 inches from the plane of the head and 4 inches right of the midline.

11. A perforating wound of 2.5 x 1.75 cm is vertically placed over the right back, 22 inches from the plane of the head and 3.5 inches right of the midline. A 2 x 1 cm yellowish metal piece embedded in the inner edges of this wound is retrieved.

12. A circular, penetrating wound of 5 mm in diameter and with abraded margins is over the left lateral thigh – over the proximal third of the thigh, 32 inches from the plane of the sole of the left foot. This wound has the characteristics of a rifled firearm wound.

13. A laceration of 12.5 x 6.25 is over the anteromedial aspect of the superior third of the left thigh. The underlying muscles of this wound are lacerated.”

11. Dr.Pramod Shreshtha exhibited his post-mortem report as Ex.PW-15/4. He opined the cause of death to be multiple rifled firearm wounds. He

also exhibited the post-mortem of R.Kannan as Ex.PW-15/5 and opined the cause of death as rifled firearms wounds to the chest. He noted the following external injuries on the body of R.Kannan:

“1. A 1 x 0.5 cm abrasion over the mid-posterior aspect of the right middle finger.

2. A 1.5 x 0.5 cm abrasion over the mid-posterior aspect of the right ring finger.

3. A 1.5 x 0.25 cm abrasion over the mid-posterior aspect of the right little finger.

4. A 1.5 x 0.25 cm abrasion, vertically places, over the back of the left hand, between the bases of the little and ring fingers.

5. A healing abrasion with scab formation of 1.5 x 0.25 cm over the medial aspect of the left knee.

6. A penetrating wound of 0.5 cm diameter, with an abrasion collar, is over the right lower chest, 21 inches from the plane of the head and 6.5 inches right of the midline. This wound has the characteristics of a rifled firearm wound.”

12. He also retrieved 1 inch long distorted firearm bullet from the left arm pit of R.Kannan. He also identified Ex.P-40 the metal piece embedded in the wound over right back. recovered during the post-mortem of T.Shankar. This witness was cross-examined at length, however nothing discernable was deduced in his cross-examination.

13. PW-1 Inspector Bijay Kumar Singh exhibited the Arms Issue Register Ex.PW-1/B which proved that the rifle No.B-0871-RFI-2003, Butt No.6 was issued to Anoop Singh, which fact was also stated by Anoop Singh in his testimony. Constable Amit Kumar recovered 9 empty cartridges from the spot i.e. three near T.Shankar, two near the window No.2, two between the bed of Constable Ajoy Joseph and T.Shankar, one near the bed of T.Shankar and R. Kanan and one near the bed of Constable Sudershan. Besides this,

blood samples, earth control sample, floor carpet and blood stains lying on the quilt were also recovered. Splinters of seven fired bullets were also recovered. One fragmented fired bullet with flesh of T.Shankar was found adjacent to Almirah No.2, two fragmented fired bullets found near Wooden Almirah No.2, one fragmented fired bullet from the floor just below window No.2, one splinter of bullet found embedded on the wooden pair of lower right cupboard of southern wall and one metallic bullet imbedded in the carpet were also recovered. One more fragmented bullet was found from the wound of Sunil Singh, the injured witness.

14. PW-14 N.B.Bardhan opined that the 5.56 mm bullet received in parcel No. 2,3,6 & 9 i.e. deformed bullets were fired from 5.56 mm INSAS rifle in parcel No.15 which was opined to be firearm under the Arms Act. However, no opinion could be rendered qua three small metallic pieces contained in parcel marked 4,7 & 10 and one badly damaged 5.56 mm fired bullet contained in parcel marked as 2, due to insufficient characteristics. It was also opined that the hole in the blue colour T-Shirt of R.Kannan contained in parcel 12 and sleeveless vest in parcel No.11 could be due to passage of 5.56 mm bullet fired from beyond powder range of firearm as no burning, blackening or tattooing could be observed.

15. Considering the material on record we have no hesitation to conclude that the impugned judgment convicting the appellant for offence under Section 302/307 IPC and 27 Arms Act suffers from no infirmity much less any illegality. Consequently, the judgment of conviction and order on sentence are upheld. Appeal is dismissed. The appellant will suffer the remaining sentence.

16. T.C.R. be returned.

17. Two copies of the judgment be sent to the Superintendent Central Jail Tihar one for his record and the other to be handed over to the appellant.

(MUKTA GUPTA)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

AUGUST 19, 2014
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