

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

% *Judgment Reserved on: July 17, 2014*
Judgment Delivered on: July 23, 2014

+ **CRL.A. 969/2012**

MAJID SHEIKH MANSOORI Appellant
Represented by: Ms.Arpan Wadhawan, Advocate for
Ms.Manjusha, Advocate

versus

STATE Respondent
Represented by: Mr.Lovkesh Sawhney, APP for the
State with Inspector Mahesh Kasana,
ATO/Sangam Vihar

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE MUKTA GUPTA

PRADEEP NANDRAJOG, J.

1. Majid Sheikh Mansoori has been held guilty for having murdered his wife Vidya. The learned Trial Judge has returned the verdict of guilt believing Azaruddin PW-7 and Shakil Mohammad PW-19 to be truthful eye witnesses. Recovery of knife Ex.P-1 pursuant to Majid Sheikh Mansoori's disclosure statement which was opined by Dr.Raghvinder Kumar PW-4 as capable of causing the 17 stab wounds on Vidya is the other incriminating evidence relied upon. After holding Majid Sheikh Mansoori guilty for the offence of murder vide impugned decision dated April 03, 2012, the learned Trial Judge has sentenced him to undergo imprisonment for life and pay fine in sum of ₹10,000/-; in default to undergo simple imprisonment for six

months vide order on sentence dated April 19, 2012.

2. Majid Sheikh Mansoori questions the decision dated April 03, 2012 on the plea that recovery of the knife Ex.P-1 has wrongly been attributed at his instance. As per him it was lying on the windowsill of the room where Vidya was murdered. Majid Sheikh Mansoori complains in the appeal that the learned Trial Judge has not considered his defence: of being falsely implicated by Azaruddin. In support of his innocence Mazid Sheikh Mansoori points out that from the injuries caused on the deceased and from the photographs Ex.PW-6/A-1 to Ex.PW-6/A-20, it becomes evident that as Vidya was being stabbed by the assailant a stream of blood oozed from the body. He argues that it is not possible that the clothes of the assailant would not be stained with blood. Majid Sheikh Mansoori highlights that from the fact that his clothes were not seized in spite of the prosecution claiming that he was apprehended at the spot inference has to be drawn that he was not the assailant of Vidya.

3. When incriminating circumstances appear in the evidence against him were put to Majid Sheikh Mansoori as per the requirement of Section 313 Cr.P.C. he denied the same and pleaded false implication. To the question: ‘Do you want to say anything else?’ He replied:-

“I am innocent. I have been falsely implicated. I had gone to my room after plying rickshaw to take lunch where I saw Vidya in a pool of blood and 3-4 persons gave beatings to me with ‘Thapi’. I ran from the spot. Two persons of Azahrudin were standing who caught me. Thereafter they tied me with the rope and gave beatings to me. Azahrudin killed my wife and gave beatings to me.”

4. Majid Sheikh Mansoori, drawing attention of the Court to the sketch

Ex.PW-7/F of the knife Ex.P-1, which knife can be better seen in the photograph Ex.PW-6/A-15, urges that a person holding the knife in his hand and inflicting 18 blows is bound to receive injuries on the palm of his hand for the reason the wooden/PVC/plastic cover on the handle of the knife is missing. The protrusion of the handle portion from the blade i.e. the single metal piece is bare at the place of the handle. Anyone holding such a knife and stabbing 18 times is bound to receive injuries on the hand. Ex.PW-9/A containing the medico legal report of Majid Sheikh Mansoori does not record any cut marks or bruise injuries on the palm of the hand.

5. Process of law commenced when L/Ct.Rachna Malik PW-12 performing duty at the Police Control Room made an entry in the Police Control Room Register at 14:36:25 hours on July 22, 2008 that an informant had informed that a lady named Vidya has been stabbed by her husband at House No.54, G Block, Gali No.10, Ratia Marg, Sangam Vihar. The said information was conveyed to the Duty Office at PS Sangam Vihar. The Duty Officer recorded DD No.23A at 2:35 PM and handed over its copy Ex.PW-17/A to ASI Pritam Singh PW-17 who accompanied by Ct.Naveen PW-18 proceeded to House No.54A, Gali No.10, G Block, Sangam Vihar and found the dead body of a lady with her face towards the ground lying outside the door of a room. There were stab marks on the body. Blood was still oozing out. PCR police had already arrived. Azaruddin PW-7 the occupier of the room outside door whereof the dead body was lying handed over Majid Sheikh Mansoori to ASI Pritam Singh. The knife Ex.P-1 lying on the windowsill of a room opposite to that of Azaruddin was seen stained with blood. There was blood all over said room. A chapatti was lying on a plate with some vegetables in a cooking utensil. Azaruddin's statement

Ex.PW-7/A was recorded by ASI Pritam Singh. Endorsement Ex.PW-17/B was made beneath the said statement recording what was seen by ASI Pritam Singh for FIR to be registered. A crime team was summoned. Ct.Anand Singhla PW-6, a photographer took 20 photographs Ex.PW-6/A-1 to Ex.PW-6/A-20 of the spot.

6. Insp.Dilip Singh PW-21 was patrolling the area with a constable and received a message regarding the incident and proceeded to the spot. He took over the investigation. He arrested Majid Sheikh Mansoori and recorded his disclosure statement Ex.PW-7/D and claims that pursuant thereto Majid Sheikh Mansoori got recovered the knife Ex.P-1 which he seized vide memo Ex.PW-7/E after drawing its sketch Ex.PW-7/F. He collected blood lying on the spot where the dead body was lying on a cotton as per seizure memo Ex.PW-7/G. He proceeded to the room splattered with blood and collected a blood sample on a cotton as per seizure memo Ex.PW-7/H. Broken bangles lying in the room were seized vide Ex.PW-7/J. He also seized a bechona (small piece of cloth) lying near the dead body as per seizure memo Ex.PW-7/M. The body was seized and sent to the mortuary of AIIMS for post-mortem. Insp.Dilip Singh prepared the rough site plan Ex.PW-21/A showing the room splattered with blood and from where he had picked up broken bangles, knife Ex.P-1 and blood samples and marked it 'A'. The room outside the door of which Vidya's dead body was seen and marked the same as 'B'. He recorded the statement of Shakil Mohammad PW-19. Majid Sheikh Mansoori was sent to Batra Hospital to be medically examined since he had abrasions around his ankle and swelling over left dorsum of wrist. Dr.Ayushman recorded on the request for medical examination application submitted to him by Insp.Dilip Singh that Majid

Sheikh Mansoori had abrasions over shin of right tibia around 4cm above the ankle and there was swelling over left dorsum of the wrist. That smell of alcohol was present and Majid Sheikh Mansoori was not fit for statement. At the mortuary of AIIMS Dr.Raghvinder Kumar PW-4 conducted the post-mortem and found as many as 18 incised and stab wounds on the dead body. Injuries 4 to 14, 16 and 18 were opined sufficient to cause death in the ordinary course of nature.

7. In his deposition in Court, Azaruddin PW-7 stated that he was residing in a room in House No.G-54A, Gali No.10, Sangam Vihar and was working as a Mason. His wife Anwari Begum was a patient of Tuberculosis and Vidya wife of Majid Sheikh Mansoori agreed to cook meals for him and his family. Vidya and Majid Sheikh Mansoori had taken a room on rent near his room. On July 22, 2008 Vidya, Majid Sheikh Mansoori and he were working at a site. Vidya and Majid Sheikh Mansoori came to their room to take lunch. He also came to his room to take lunch. He heard shrieks from the room of Majid Sheikh Mansoori '*Mujhe bachao Majid ne mujhe chakoo mar diya*'. He immediately rushed towards Majid's room. Vidya rushed towards his room and fell outside the door. Majid ran away. He told his wife to look after Vidya and chased Majid and apprehended him at about a distance of 100 feet. Somebody informed the police control room. The police recorded his statement Ex.PW-7/A. Majid Sheikh Mansoori's disclosure statement Ex.PW-7/D was recorded in his presence. The knife Ex.P-1 was seized in his presence vide seizure memo Ex.PW-7/E. The sketch Ex.PW-7/F thereof was prepared in his presence. Seizure memos Ex.PW-7/G to Ex.PW-7/M were prepared in his presence. A police photographer took the photographs in his presence.

8. Relevant would it be to note that the line of cross examination adopted was that he and Vidya were having meals together in the room when he proposed to Vidya to start living with him. Her refusal infuriated him and he stabbed Vidya. A line of cross examination where every suggestion directed towards said line was denied.

9. Sakil Mohammad PW-19 deposed that he was residing at G-52/10, Sangam Vihar and was returning home around 2:00 PM when he saw Azaruddin chasing a person and shouting '*pakdo pakdo*'. He joined in the chase. The person running was apprehended at some distance whose name he later on learnt was Majid Sheikh Mansoori.

10. ASI Pritam Singh, Insp.Dilip Singh and L/Ct. Rachna Malik deposed facts noted by us in paragraph 5 and 6 above and proved the various memos drawn up by them. Dr.Raghvinder Kumar PW-4 proved the post-mortem report of the deceased and his opinion regarding cause of death and regarding the knife Ex.P-1. Since Dr.Ayushman was not serving Batra Hospital his opinion on the request for medical examination submitted in writing by Insp.Dilip Singh i.e. Ex.PW-9/A was proved by Dr.Anish PW-9 working at Batra Hospital and who was acquainted with the writing of Dr.Anish.

11. Now, Majid Sheikh Mansoori does not deny his presence when his wife Vidya was murdered but claims that he was falsely implicated.

12. Before dealing with the other evidence, we note the fact that the knife Ex.P-1, as deposed to by ASI Pritam Singh PW-17 was seen by him at the windowsill of the room which was splattered with blood and one can see the same very clearly in the photograph Ex.PW-6/A-15. The question therefore of Majid Sheikh Mansoori getting recovered the knife Ex.P-1 pursuant to his

disclosure statement does not arise. The photograph would evidence that the knife was stained with blood and even to a layman it would be apparent that the knife had been used as a weapon of offence. We ignore said evidence.

13. Majid Sheikh Mansoori has not denied the fact that he and Vidya used to reside in the room marked 'A' in the rough site plan Ex.PW-21/A and that Azaruddin used to reside in room marked 'B'. Apart from the testimony of the various police officers and Azaruddin which we have noted above, the photographs Ex.PW-6/A-7 to Ex.PW-6/A-9 as also Ex.PW-6/A-12 to Ex.PW-6/A-17 would evidence that the room marked 'A' is splattered with blood. Photograph Ex.PW-6/A-12 would show an uncooked chapatti on a plate. It is apparent that Vidya was murdered in the room in which she resided with Majid Sheikh Mansoori. The photograph Ex.PW-6/A-5 shows Vidya lying with her face down just outside the door of the room marked 'B' in which Azaruddin used to reside.

14. It is apparent that Vidya ran from room 'A' to 'B'. She knew that Azaruddin was residing in room 'B' and her running towards room 'B' is indicative of her running towards safety. Said fact by itself negates Majid Sheikh Mansoori's defence of being falsely implicated and the culprit being Azaruddin. His version that Azaruddin murdered Vidya because she refused to live with him would mean that he was present when Azaruddin made the proposal and his wife Vidya refused. It is unbelievable that in the presence of Majid Sheikh Mansoori Azaruddin would have the temerity to ask Vidya to live with him. That apart, there is no reason for Sakil Mohammad PW-9 to depose falsely. His deposition was that Azaruddin was chasing a person shouting '*pakdo pakdo*'. He joined the chase. The person running was apprehended at some distance whose name he later on learnt was Majid

Sheikh Mansoori.

15. It is indeed an open and shut case against Majid Sheikh Mansoori. His defence that Azaruddin killed Vidya when she refused to live with him and he was falsely implicated falls flat in the teeth of evidence appearing against him which we have noted above. The dastardly act of stabbing an innocent lady 18 times, even in a fit of rage, would require a person not to be in his senses and we simply highlight that Majid Sheikh Mansoori's medical examination conducted by Dr. Ayushman brings out that he was so drunk that he was not fit for even making a statement.

16. In the teeth of the overwhelming evidence the lapse by the Investigating Officer not to have seized Majid Sheikh Mansoori's clothes which he was wearing when he was apprehended at the spot would at best be a lapse on the part of the Investigating Officer. That Majid Sheikh Mansoori's hand had no injury and the argument that the knife Ex.P-1 if used as a weapon of offence would have caused cut marks on the palm of the assassin, overlooks that Majid Sheikh Mansoori who claims to be a rickshaw puller, as per the profession disclosed by him when his statement under Section 313 Cr.P.C. was recorded, appears to be a Mason or a Baildar for the reason in his testimony Azaruddin has said that on the day of the incident Vidya and her husband were working with him at a site (Azaruddin has deposed that he was working as a Mason), and we take judicial notice of the fact that the hands of an artisan and especially when the artisan is engaged in construction activity would be coarse hands.

17. The 18 stab injuries inflicted on Vidya's body are as under:-

“Ante mortem injuries:

1. *One incised wound of size 1.5 x 0.3 cm was present over lower part of back of right arm, margins were clean cut. It was 3.0 cm lateral and above to right olecranon process.*
2. *One incised wound of size 1 x 0.4 cm was present over medial and above left olecranon process. Margins were clean cut.*
3. *One incised wound of size 2.5 x 0.5 cm was present over lateral aspect of left hand continuing with scratch abrasion 2.0 cm in length. It was 1.0 cm distal from distal radial.*
4. *One stab wound of size 2 x 0.5 cm was present over front of left forearm 3.0 cm proximal from distal radial and exit wound. It was as continuation of wound present over dorsum of left forearm of size 2.8 x 1 cm, after piercing skin, muscles, fascia, vessels, nerves.*
5. *One stab wound of size 2.5 x 0.5 cm (entry wound) spindle shaped, clean cut was present over dorsolateral aspect of left forearm, 5.5 cm proximal from distal radial end, after piercing skin, fascia, muscles and vessels. The wound track was coming out over ventral aspect of forearm over midline 5.7 cm proximal to palmar crease.*
6. *One stab wound of size 2.5 x 0.1 cm, spindle shaped was present over dorsal surface of left forearm, running through skin, fascia, muscles, vessels, nerves to ventral surface of left forearm (exit wound) size 2 x 0.5 cm, 0.7 cm proximal to palmar crease.*
7. *One stab wound was present over lateral aspect of left elbow of size 3 x 0.7 cm, 7.0 cm lateral to left elbow, after piercing skin, fascia, muscles, vessels, nerves it was coming out through medial aspect of left elbow size 2 x 0.5 cm, 3.0 cm medial to left elbow.*
8. *One stab wound of size 3 x 0.8 cm was present over*

lateral aspect of lower part of left arm of size 3 x 0.8 x 2.0 cm was present over lateral and above to left elbow (olecranon process).

9. *One stab wound of size 4.5 x 2.0 x 3.0 cm was present over upper part of front of right forearm, spindle in shape 29.0 cm distal to right shoulder,, 18 cm proximal to palmer crease.*

10. *One stab wound of size 2.5 x 1.0 cm spindle shaped lying obliquely was present over right side of chest. It was 2.4 cm from suprasternal notch 1.0 cm lateral and right from midline. The wound was piercing skin, superficial fascia, muscles and entering to right pleural cavity, where hematoma was present. The wound was also piercing right lung on anterior surface of lower part at right upper lobe.*

11. *One stab wound of size 2 x 1.0 cm was present over right side of chest 3.0 cm lateral and right from midline. This wound was 1.5 cm right and below to wound no.11 piercing skin, superficial fascia, muscles, vessels and nerves entering into right pleural cavity and piercing through anterior surface of upper part of right lower lobe.*

12. *3.5 cm below the wound no.12 one stab wound of size 1.5 x 0.3 cm was present over the right side of chest the wound after piercing skin, superficial fascia, muscles entering into right pleural cavity.*

13. *1.5 cm below the injury no.13 and 3.0 cm right from midline one stab wound was present over right side of chest, the wound was spindle in shape. After piercing skin, fascia, muscles, vessels etc. And nerves peritoneum entering into anterior surface of right lobe of liver upto depth of 1.0 cm.*

14. *One stab wound of size 2x0.8 cm was present over middle part of chest, 12.0 cm below suprasternal notch after piercing skin, fascia, muscles, peritoneum. It was piercing anterior surface of medial part of right lobe of liver.*

15. *One incised wound of size 0.5 x 0.2 cm was present over midline. It was 3.0 cm below the injury no.15.*

16. *One stab wound of size 2x0.5 6.0 cm lateral and left to midline, 3.0 cm medial from left nipple after piercing skin, superficial fascia, muscles it was entering into pericardial cavity where hametoma was present, after it was entering into anterior surface of left ventricle into its cavity.*

17. *One incisess wound of size 0.8 x 0.3 cm present over left side of hest 10.0 cm lateral and left to midline, 0.7 cm medial from left nipple.*

18. *One stab wound of size 1.5 cm (0.9 cm lateral and left to midline) was present over left side of chest, after piercing skin, superficial fascia, muscles, it was entering into left pleural cavity where hematoma was present.”*

18. There is no scope for an argument that the offence committed is not murder but culpable homicide not amounting to murder.

19. The appeal is dismissed.

20. TCR be returned.

(PRADEEP NANDRAJOG)
JUDGE

(MUKTA GUPTA)
JUDGE

JULY 23, 2014

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