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

DECIDED ON : 25th NOVEMBER, 2017

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CRL.A. 894/2015

CHANDER MOHAN DHINGRA Appellant

Through : Mr.Azhar Qayum, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) Respondent

Through : Ms.Aashaa Tiwari, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

HON'BLE MR. JUSTICE C.HARI SHANKAR

S.P.GARG, J. (OPEN COURT)

1. Perpetrator of the crime in this appeal is none else but the victim's own son Chander Mohan Dhingra. By a judgment dated 15.07.2013 in Sessions Case No.30/2012 arising out of FIR No.47/2012 PS Krishna Nagar, the appellant was held guilty for committing offence punishable under Sections 302/307/309 IPC. By an order dated 17.07.2013, he was awarded various prison terms with fine. The sentences were to operate concurrently.

2. Allegations as reflected in the charge-sheet against the appellant were that on the night intervening 06/07.02.2012 at around 12.00 at the ground floor of House No.F5/30, Krishna Nagar, he committed

murder of his father Harnam Dass Dhingra by inflicting injuries to him. In the process, he also caused grievous injuries to his mother Kailash Dhingra. Subsequently, the appellant also attempted to commit suicide. DD No.17A (Ex.PW-20/J) came to be recorded at PS Krishna Nagar at around 09.15 a.m. to the effect that ‘decoits’ had entered the house No. F5/30, Krishna Nagar. The investigation was assigned to ASI Pawan Singh who along with Const.Jagdish Chandra reached the spot. After recording victim – Kailash Dhingra’s statement (Ex.PW-4/A), the Investigating Officer lodged First Information Report vide rukka (Ex.PW-21/A). The complainant gave detailed account as to how and in what manner, the appellant inflicted injuries to her and her husband Harnam Dass Dhingra. Harnam Dass Dhingra succumbed to the injuries and was declared brought dead at the hospital. Post-mortem examination on the body was conducted. Statements of the witnesses conversant with the facts were recorded. Exhibits collected during investigation were sent to Forensic Science Laboratory for examination. Certain recoveries were effected at the appellant’s instance after his arrest. Upon completion of investigation, a charge-sheet was filed against him for commission of the aforesaid offences. The prosecution examined twenty-one witnesses to bring home the appellant’s guilt. In 313 Cr.P.C. statement the appellant denied his involvement in the crime and pleaded false implication. The trial resulted in conviction as mentioned previously. Aggrieved and dissatisfied, the appellant has challenged the impugned judgment.

3. We have heard the learned counsel for the parties and have examined the file. Admitted position is that the deceased Harnam

Dass Dhingra was appellant's father. PW-4 (Kailash Dhingra) is his mother. It is also not in dispute that they all lived together at House No.F5/30, Krishna Nagar, Delhi. The appellant did not deny his presence in the house on the fateful night. Harnam Dass Dhingra's death took place inside the room in the house. On that night, none else was present at the place of occurrence except the appellant, PW-4 (Kailash Dhingra) and her husband Harnam Dass Dhingra.

4. The incident took place on the night intervening 06/07.02.2012 at around 12.00. The rukka (Ex.PW-21/A) was sent on 07.02.2012 at around 01.55 p.m. The complainant had named the appellant to be the perpetrator of the crime and had assigned specific and definite role to him in the crime. Since the FIR was lodged promptly there was least possibility of the complainant to have concocted a false story in such a short interval.

5. While appearing as PW-4 (Kailash Dhingra) supported the prosecution case in its entirety and proved the version given to the police at the first instance without any variation. She deposed that on the night of 06.02.2012, she along with her husband Harnam Dass Dhingra and son Chander Mohan Dhingra (the appellant) had taken dinner and gone to sleep at around 12 or 12.30 night. On hearing noise from the room where her husband was sleeping, she woke up and went there. She saw the appellant inflicting injuries to her husband Harnam Dass Dhingra. When she intervened to save her husband, the appellant challenged her and warned her not to intervene or else he would kill her. When she continued to intervene to save her husband, the appellant inflicted injury on her head with a 'musli'. She

further deposed that the appellant wanted to kill her husband. Firstly, he gave fist blows to her husband and asked for details about his bank accounts and properties, etc. The appellant locked the doors to prevent anyone to enter inside. After her husband provided details of the bank accounts and the properties, the appellant told them “Ram Kaa Naam Lay Lo Tumhar Akhri Time Aaa Gaya Hai”. Saying so, the appellant started giving blow with musli on her husband’s head. Despite her restraint, the appellant continued to give blows on her husband’s head. The appellant thereafter brought a knife from the kitchen and gave knife and ‘musli’ blows to her husband and her. She started weeping and crying. On her opening the door, neighbours and passers-by entered and helped in breaking open the door of the room. Some persons entered from the roof and ventilator and unbolted the door. Police was informed. She and her husband were taken to Dr.Hedgewar Arogya Sansthan. In the cross-examination, she informed that the house where they lived was registered in her name. The appellant was not doing any job and was unmarried. He was not happy with the visits of her sister and relatives to them. She denied if the appellant was suffering from any mental disorder.

6. PW-4 (Kailash Dhingra) is victim’s wife and appellant’s mother. It was a difficult situation for her to make statement against her own son. At the same time, she was to bring to book the real offender. She herself had suffered grievous injuries on her body at the appellant’s hands. She had no ulterior motive to falsely implicate her own son. She being an injured witness, her testimony stands on higher footing. Her presence at the spot is quite natural and probable.

The occurrence had taken place inside the house at odd hours, it was quite natural for her to reach the spot on hearing cries of her husband at night. None else except the appellant was present in the said room where the victim had sustained fatal injuries and died at the spot. We find no sound reasons to disbelieve the complainant's version. Despite cross-examination, nothing material could be elicited to suspect the version narrated by her.

7. PW-7 (Seema Arora) is appellant's sister. She informed that on 28.05.2011 also a complaint was lodged against the appellant for beatings by him to her parents. In 2011, the appellant was even sent to Tihar Jail in a case and after release, he became more offending against her parents and used to give beatings to them. She further disclosed that her parents were scared of him. She herself had stopped visiting her parents' house due to appellant's attitude when he refused to get 'Rakhi' tied from her. Again, the sister is not expected to make a false statement against her 'only' brother younger to her. PW-10 (Charanjeet) - victim's brother-in-law also deposed that on 28.05.2011 Harnam Dass Dhingra had lodged a complaint against the appellant as he used to harass him and his sister Kailash Dhingra. He also proved complaint dated 28.05.2011 (Ex.PW-10/E) lodged by him against the appellant.

8. PW-8 (Yatin Kundra) was among the individuals who had reached the spot at around 07.30 / 08.00 a.m. on 07.02.2012 after hearing noise from the house. Someone made a call at 100. PW-8 (Yatin Kundra) along with neighbourers broke open the gate and went inside where the victim's body was found. Kailash Dhingra was also

lying on the sofa; the appellant was lying on the bed in another room; blood was there in both the rooms. The PCR van shifted all the injured to the hospital.

9. In 313 Cr.P.C. statement the appellant did not give plausible explanation to the incriminating circumstances proved against him. He did not deny his presence at the spot at the relevant time. It was not the appellant's case that the injuries were inflicted to his parents by someone else. Had it been so, the appellant being the victim's son must have lodged report with the police promptly. Appellant's attitude and behavior was violent towards his parents, sister and relatives. Seemingly, he was interested in the properties of his parents. On the night, before putting an end to the victim's life, he had enquired about the bank accounts and the property. He was not doing any job despite being graduate. He did not furnish any reason as to what prompted him to make an attempt to commit suicide. No credible evidence has emerged to infer if the appellant was suffering from any mental disorder or he was not aware of the consequences of the act whereby he inflicted injuries not only to the victim Harnam Dass Dhingra but also to his mother PW-4 (Kailash Dhingra). Victim was earlier inflicted injuries with a 'musli'; thereafter the appellant brought a knife from the kitchen and caused various injuries on the victim's body. Post-mortem examination report (Ex.PW-14/A) reflects that nine injuries of various dimensions were caused to the victim Harnam Dass Dhingra. Cause of death was cranio cerebral damage consequent upon blunt force impact which was sufficient to cause death in the ordinary course of nature. PW-13 (Dr.Ashok Dua)

medically examined PW-4 (Kailash Dhingra) vide MLC (Ex.PW.13/C), she suffered grievous injuries on her body. Infliction of various injuries repeatedly by blunt and sharp objects reflects that the appellant was well aware as to what was happening and what was his intention. Certain recoveries at his instance also connect him with the crime. The exhibits collected were sent for Forensic Science Laboratory for examination. DNA profiling report (Ex.PW-16/A) is another incriminating circumstance against the appellant.

10. The appellant's conviction based upon fair appreciation of the evidence warrants no intervention.

11. The appeal is unmerited and is dismissed.

12. Trial Court record be sent back forthwith with the copy of the order. Intimation be sent to the Superintendent Jail.

S.P. GARG
(JUDGE)

C.HARI SHANKAR
(JUDGE)

NOVEMBER 25, 2017 / tr