

Ramesh Ramdas Teli

Vs

The State of Maharashtra

Criminal Appeal No. 60 of 1975

(M. H. Geg, P. K. Goswami JJ)

19.11.1975

JUDGMENT

BEG, J. -

1. The appellant Ramesh Ramdas Teli was convicted under Section 302, Indian Penal Code and sentenced to death for committing the murder of one Nandlal Chandnani by stabbing him on the night between June 28 and 29, 1973, in Shyam Sadan, Marine Drive, Bombay, in an attempt to escape from the flat of the deceased which he had entered for committing theft. The appellant was also convicted under Section 458, I. P. C. and sentenced to six years' rigorous imprisonment. The conviction of the appellant rests on the evidence of identification by Bipinchandra Modi, PW 5, and Abdul Rehman, PW 11, and Venkatesh Narsappa, PW 13, corroborated by circumstantial evidence.

2. The murdered man Nandlal Chandnani was living with his wife and parents in flat No. 8, of a building known as Shyam Sadan situated on 'F' Road, Marine Drive, Bombay. The flat had 3 bedrooms, a kitchen and a hall. The bedroom in which Nandlal Chandnani and his wife Smt. Lajja Chandnani were asleep is on the western side with a balcony overlooking the compound adjoining a passage to Shri Niketan Garden. The door of the bedroom leading to the balcony was kept open probably because it was the month of June, Smt. Lajja, PW 2, was awakened by the voice of her husband at 3.15 a. m. She got up from her bed and heard him shouting 'chor chor'. She opened the main door of the room leading to the rest of the house. She saw that her husband was struggling with a stranger trying to get away from the balcony. She put on the light and went to the assistance of her husband and caught hold of the leg of the stranger who pushed her with his leg and also struck her with his knife on her left cheek and forehead and then escaped. Her shouts brought her mother-in-law and other relations. She noticed that her husband was bleeding profusely and soon collapsed on the bed. Her father-in-law and brother-in-law also came into the room. Servants were called. A doctor was sent for. Shri Nandlal Chandnani was removed to the G. T. Hospital and he expired soon after reaching there. A first information report was lodged at Azad Maidan police station at 3.55 a. m. on June 29, 1973 by Raghunath Rai, PW 4, a resident of flat No. 4 in Shyam Sadan who was once of the persons who assembled in the flat after the dastardly attack.

3. The assailant had been seen running away by several persons including Padam Singh, PW 7, and Bipinchandra Modi, PW 8, who had seen a man crossing the road from Bharat Mahal on 'F' Road across Netaji Subhash Road and jumping over the pavement wall on to what is known as "Tetrapods" on the beach. Raghunath Rai, PW 4, had also seen a person jumping over the compound wall of Bharat Mahal which adjoins Shyam Sadan. He had also seen some persons chasing the man. At first, he thought that it was a case of petty theft, but he soon learnt, from neighbours, that it was a case of serious stabbing. Bipinchandra Modi, PW 8, used to sleep in the compound of Seksaria

building which lies across the 'F' Road in front of Bharat Mahal. He had chased the assailant who jumped over the boundary of the pavement on to 'Tetrapods' on the beach. The man who had escaped towards the sea emerged a little later at a place nearly 1100 ft. to the south of 'P' Road, on Netaji Subhash Road. At that time, Abdul Rehman, PW 11, and Venkatesh Narsappa, PW 13, and Mohan Velayudan saw him. Abdul Rehman had earlier heard the shouts of "chor chor". He had seen a man who was being chased jumping over the pavement wall on to the Tetrapods. As he saw a man coming from the Tetrapods back to the Netaji Subhash Road, Abdul Rehman, PW 11, told his friends, Narsappa, PW 113 and Mohan Velayudan, who used to sleep at the bus stop in his company, that the man who had come out was the man who had escaped towards the sea. This was probably guesswork. But, when Narsappa and Mohan Velayudan ran after that man so as to be able to catch him, the man turned round, faced them, and threatened to use his knife on them. This frightened Venkatesh Narsappa and Mohan Velayudan who retreated. The man then escaped towards the building called Zaver Mahal.

4. It appears that soon after the man who had eluded arrest either at the flat or by those, including Bipinchandra Modi, PW 8, who had chased him when he jumped over the pavement wall and ran towards the sea, or, subsequently, when Abdul Rehman, PW 11, and his two friends, Venkatesh Narsappa, PW 13, and Mohan Velayudan, tried to catch him, the appellant was seen with a friend called Chinappaya at Irani Hotel, near a church, opposite Marine Lines railway station. There, he found another friend Abdul Karim Yusuf alias Takalya, PW 10, having tea. The two men sat near Takalya who was struck by the frightened look of the accused-appellant, and asked him what the matter was. It appears that the appellant, unable to keep the secret within himself, told Takalya what had happened in a flat at 'F' Road and warned him not to go that side. This kind of behaviour is not peculiar for desperate people with little control over their speech or actions. Apparently, they were birds of the same feather. Hence, Takalya did not tell anyone immediately. But, on the next day, when the murder was being discussed, he told his friend, Ganesh Swami, PW 9, that the appellant had confessed to him. It appears that the appellant had no home and used to usually sleep in the Shri Niketan Gardens which adjoin Shyam Sadan buildings. What the appellant had revealed to Takalya was covered to Ganesh Swami, PW 9. Apparently, Takalya was appellant's friend and had known him for over a year. The appellant was arrested and put up for identification at a test parade held on July 2, 1973 at which Bipinchandra Modi, PW 8, Abdul Rehman, PW 1, Venkatesh Narsappa, PW 13, and Mohan Velayudan identified him, but Padam Singh, PW 7, and Smt. Lajja Chandnani, PW 2, failed to identify him. This shows that the identification proceedings conducted by a magistrate were above board. The identifying witnesses were thoroughly cross-examined. Their evidence showed that they had sufficient opportunity to mark the features of the appellant well. They also identified the appellant in court. Furthermore, their identifications are corroborated not only by the evidence of Takalya to whom the appellant had made an extrajudicial confession, but also by the evidence of the recovery of a bloodstained knife and a bloodstained "bush shirt" at the pointing out of the appellant. The appellant had also some injuries on his person which had resulted from the scuffle. Their duration coincided with the time of the occurrence. He had also some bloodstains on his clothes which he could not explain. The bloodstains on the objects mentioned were of the same group as either that of the deceased or of his wife. The accused's blood grouping is different. After examining the whole evidence there is not a shadow of doubt left in our minds that the appellant had committed the dastardly attack which resulted in the following injuries on the body of the deceased :

(A) Abrasions, linear and incised, on :

(1) Front lower part of neck, 2.8 cm., not tailing;

(2) Chest to the left of lower end of breast bone, 3.4 cm., tailing up;

(3) Chest near right armpit, 2.1 cm., tailing down.

(B) Bruises blue red on chest above injury No. A-3, below middle of right collar bone, 4.8 X 3.0 cm. area.

(C) Incised stab wound on front upper part of left arm at level of armpit, 2.8 X 1.0 X 5.5 cm. deep under muscle near outer side of bone, tailing 0.5 cm. inwards, outer and square.

(D) Incised stab wound on chest below outer half of left collar bone, 2.0 X 0.5 X 6.2 cm. deep under muscle, direction of the blow from above vertically down under the skin and muscle, outer end square.

(E) Incised stab wound on chest below inner half of left collarbone, outer and square, 2.4 X 0.4 cm.

5. He noted the following ante-mortem internal injuries corresponding to external injury E :

(1) Second left intercostal space perforated in front below costal cartilage, 2.0 cm. cut.

(2) Pericardium cut in front 1.5 cm.

(3) Ascending aorta cut in front 1.5 cm. and 2.5 cm. cut behind internally (outer covering remaining intact).

6. The most that could be said in defence of the appellant was that it was not certain, from the evidence, from which place he actually jumped over the pavement wall on to the Tetrapods. It is however, clear that he emerged a little later near the bus stop where Abdul Rehman and his friends used to sleep. It appears that Abdul Rehman had gone a little bit ahead towards the north to urinate when he heard the shouts of "chor chor" and saw the appellant escaping towards the sea by jumping over the pavement wall on to the Tetrapods. It may be a matter of inference, when the appellant emerged a little later near the bus stop further south in order to take the passage by the side of the Zaver Mahal, that he was the same person. The inference was justified by the appellant's conduct. There were lamp posts on the road in the light of which the appellant's features could be made out. He had turned round to face the two men who chased him. Abdul Rehman, PW 11, had seen him not merely jumping over the pavement wall from a distance but also emerging again over the pavement wall near the bus stop. The identifying witnesses had ample time to mark his visage. Moreover, as we have seen, there is ample corroborative evidence which lends assurance to the evidence of the identity of the escaped assailant. The total effect is to convince us beyond reasonable doubt that the appellant is the murderer.

7. We find no extenuating circumstance to reduce the sentence. The deceased had done no harm to the appellant. The appellant is apparently a desperate character who would not stop at killing rather than be caught in an attempt to steal after breaking into a house. We do not think that anything less than a death sentence is deserved by him.

8. Consequently, we affirm the conviction and sentence of the appellant and dismiss the appeal.

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