

(2014) 09 DEL CK 0112
In the Delhi High Court
Case No : CRL. A. 201/2012

Mahman Singh

APPELLANT

Vs

State NCT of Delhi

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 307, 326, 335, 506

Citation : (2014) 09 DEL CK 0112

Hon'ble Judges : Pradeep Nandrajog, J; Mukta Gupta, J

Bench : Division Bench

Advocate : Vivek Sood, Prem Prakash, Jaideep Tandan and Jhanavi Mahana,
Advocate for the Appellant; Lovkesh Sawhney, APP and SI Govind Singh,
Advocate for the Respondent

Judgement

Pradeep Nandrajog, J.—Mahman Singh @ Monu has been convicted for an offence punishable u/s 307 IPC and has been sentenced to undergo imprisonment for life and pay fine in sum of Rs. 2,00,000/- (Rupees Two Lacs only); upon realization of the fine the sum has been directed to be paid over to the injured. He has also been convicted for the offence punishable u/s 506 IPC for which he has been sentenced to undergo RI for 7 years and pay fine in sum of Rs. 50,000/- (Rupees Fifty Thousand only), in default of payment of fine to undergo SI for 6 months.

2. Before we discuss the evidence, as to how Monica sustained the grievous injuries with a sharp edged weapon we note that when the incriminating circumstances were put to Mahman Singh he admitted being in love with Monica and claimed that even she reciprocated his love. He denied having caused injuries with the butcher's knife Ex.P-1 to Monica. He explained Monica being injured in his house as under:-

"Ms. Monica used to travel in my bus and thereafter, I and Monica developed love affair and thereafter she used to come at my residence regularly. On the day of

incident, it was my birthday and Monica was present at my home. I and Monica were preparing for birthday celebration and my uncle Goman Singh was also present at that time with me. After sometime, 5-6 boys came there, out of which name of one of the boy was Vinod and they dragged Monica and forced her to sit in the car. I stopped them but they also gave beatings to me and Monica. We both became unconscious and I came to know that they also burnt my house. I and Monica were admitted in the DDU hospital and when I regained my consciousness, I was taken to PS. Monica deposed against me before the court as her parents were not interested to marry Monica with me."

3. Now, as per Mahman Singh, the day on which the incident took place i.e. January 21, 2007, was his birthday. Monica was present in his house to participate in the birthday celebrations. 5-6 boys came there. One of whom was Vinod, they dragged Monica and forced her to sit in the car. He stopped them. The boys gave beating to Monica and him. Both became unconscious. The boys burnt his house. He and Monica were admitted in Deen Dayal Upadhyay hospital. Monica deposed against him because her parents were not interested in Monica marrying him.

4. Monica's MLC Ex.PW-1/A notes that she had : (i) a clean incised wound extending from the middle of the neck up to behind the right ear; (ii) an incised wound bone deep at the base of the left thumb exposing the tendon with a piece of the bone chopped off; (iii) a clear lacerated wound in the occipital region; (iv) an incised wound at the joint below the chin; (v) an incised wound behind the right ear extending to the nape of the neck; and (vi) a few bruises and abrasions on the face.

5. When Monica appeared in court to depose on March 07, 2011, the learned Judge noted that Monica's face was disfigured due to 80 stitches on the right side of her head, on the right cheek, right ear and thumb of left hand was partly chopped. She had lost power of speech for about 31/2 years and was still under treatment. She was having difficulty in speaking.

6. The learned Trial Judge noted the physical condition of Monica if it became relevant at the final stage after evidence was led, obviously impacting the appropriate sentence to be imposed upon Mahman Singh.

7. Since Mahman Singh has not disputed that Monica was present in his house but claims that Vinod and some other boys intruded into the house and dragged Monica out and she and the appellant were injured by these boys and for which argument Mahman Singh relies upon his MLC Ex.PW- 3/C which records : (i) a clean incised wound 2 cm x 0.5 cm below the chin (tailing not seen); (ii) clean incised wound 4cm x 1 cm tailing towards the internal side just above the left wrist; and (iii) (illegible) mark extending just below the right angle of mandible up to the middle of u/a neck.

8. Appearing as the sixth witness of the prosecution Ms.Monica deposed that she became friendly with one Sonu, who happened to be Mahman Singh's sister. At

that time she was in private employment in the year 2006 in Karol Bagh and used to travel to and fro in a TSR. On the advice of her mother to save money she started travelling by bus. Mahman Singh was the driver of a bus plying on the route between her house and her work place. She started travelling in the bus. She became suspicious of Mahman Singh because of the manner he would try to help her and look at her. She stopped travelling in the bus. As a matter of fact she left the job. Mahman Singh managed to send his other sister to her house for tuition. Not knowing that the girl was Mahman's sister, she gave tuition to the girl, who twice or thrice took her clothes and shoes to wear. When she requested the girl for her clothes and shoes to be returned she gave her address of Hari Nagar and asked her to come to her house to pick up the clothes. So induced, she went to the house in question and was stunned to see Mahman Singh in the house. She came back. On the day of the incident she was waylaid by Mahman Singh when she was alone waiting for a TSR. Brandishing a knife Mahman Singh compelled her to go along with him to his house. He dragged her inside the room and took out the dagger (a meat chopper) Ex.P- 1. Pointing the dagger at her he asked her to marry him. She refused. She tried to escape. Mahman Singh inflicted injuries on her ear, chin, head, neck and left hand. She became unconscious and gained consciousness in the hospital. She produced photographs Ex.PW-6/A-1 to A-8 showing how she was disfigured. She also produced in court Ex.PW-6/B-1 to B-3 with envelopes Ex.PW-6/B-4 and B-5, being letters sent from Rohini Jail by Mahman Singh to her.

9. Relevant would it be to note that during cross-examination the suggestion put to the witness was that one Dr.Vinod and a few other persons were present in Mahman Singh's house for a birthday party, a suggestion which she denied. Further suggestion given to her was that Dr.Vinod advised her not to continue to maintain relations with Mahman Singh nor to marry him, a suggestion which she denied. Further suggestion given to her, which she denied, was that when she told Dr. Vinod that she would continue with her relations with Mahman Singh and would marry him, Dr.Vinod and his associates gave her beatings as also to Mahman Singh.

10. We would simply highlight that the suggestion given to PW-6 qua Dr.Vinod is entirely different than the version given by the appellant when he was examined u/s 313 Cr.PC.

11. We have seen the cross-examination of Monica whose statement by way of examination-in-chief has been briefly noted hereinabove. We find that Monica has withstood the test of cross-examination.

12. The knife Ex.P-1 is a chopper knife. It can be graphically seen in the photographs Ex.PW-7/X7. The chopper knife is lying inside appellant's house. The knife has been identified by Monica as the one used to first threaten her and then injure her.

13. The photographs Ex.PW-7/X1 to X8 of appellant's house would show an

attempt made to burn the house.

14. Contention urged as to why would the appellant do it is answered : the mad action of a mad lover.

15. Concerning injuries on Mahman Singh, the first and the second are possible if a person madly in love, on being spurned starts disfiguring the face of whom he loves. The weapon being a butcher's knife and the lover being in close proximity. The second injury on the wrist of the left hand is also explainable because when with the knife in the right hand the face of the victim is being disfigured the left hand would be attempting to hold on to the victim by grasping the face or the neck. The injuries are superficial.

16. With reference to Monica's MLC and her testimony it is apparent that Mahman Singh had not desired to kill Monica. He did not attempt to stab Monica. He inflicted incised wounds on her neck and the face. The obvious intention was to permanently disfigure Monica's face. The mental condition of Mahman Singh was : if you cannot become mine, I shall disfigure you so that you can become the beloved of none.

17. Mahman Singh's conviction for the offence punishable u/s 307 IPC is thus wrong because notwithstanding he causing, apart from other grievous injuries, one grievous injury on the neck of Monica, the intention was clearly to disfigure Monica by scarring her face.

18. Section 326 of IPC reads as under:

"326. Voluntarily causing grievous hurt by dangerous weapons or means - Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

19. Now, Ex.P-1 is not an ordinary pen knife or an ordinary kitchen knife. It is a knife which butchers use and seeing in the photograph Ex.PW- 7/X2, it has a wooden handle of about 5 inch length. The blade is about 12 inches long. At base its thickness is about 1 1/2 inches and it tapers towards the tip. Mahman Singh has directed the dagger Ex.P-1 to cause injuries on the face of Monica and in the process has even, probably while trying to cut her chin inflicted an incised injury on the neck. Photographs Ex.PW-6/A1 to A4 show Monica's face immediately after the surgery and as it ultimately came to be post surgery. The learned Trial Judge has noted that 80 stitches had to be sutured.

20. Mahman Singh has used an instrument (Ex.P-1), for cutting which could also

be used for stabbing, as the weapon of offence to cause grievous hurt to Monica. The instrument used as a weapon of offence was dangerous and was capable of causing Monica's death. We highlight that in the process of inflicting the incised wound even the neck was injured.

21. The offence committed by Mahman Singh is voluntary causing grievous hurt by a dangerous weapon.

22. As regards the sentence, we are of the opinion that all males who believe that all females on the street belong to their league and are available for play whenever the males desire and upon being spurned by the females try to disfigure the face of the female, whether by using a corrosive substance such as acid or a butcher's knife causing permanent damage to the face of the female, warrant the highest penalty prescribed i.e. imprisonment for life.

23. Maintaining Mahman Singh's conviction for the offence punishable u/s 506 IPC and the sentence thereto, we convict Mahman Singh for the offence punishable u/s 326 IPC but maintain the sentence to undergo imprisonment for life and pay fine in sum of Rs. 2,00,000/-, which if realized shall be paid to Monica; in default of payment of fine Mahman Singh shall undergo simple imprisonment for two years.

24. TCR be returned.