

(2006) 07 DEL CK 0027

In the Delhi High Court

Case No : Criminal Appeal No's. 109, 181 and 186 of 2005

Raj Kappor @ Raj Dahiya

APPELLANT

Vs

State of Delhi

RESPONDENT

Date of Decision : 21-07-2006

Acts Referred:

Arms Act, 1959 — Section 27
Criminal Procedure Code, 1973 (CrPC) — Section 164, 251
Penal Code, 1860 (IPC) — Section 120B, 279, 302, 307, 316

Citation : (2007) 94 DRJ 218

Hon'ble Judges : R.S. Sodhi, J;P.K. Bhasin, J

Bench : Division Bench

Advocate : K.B. Andley, M.L. Yadav Navin Gaur and C.M. Mathur, for the Appellant; R.M. Tiwari, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Sodhi, J.—Criminal Appeals No. 181/2002, 186/2002 and 109/2002 seek to challenge the judgment dated 22.12.2001 and order of sentence dated 15.01.2002 passed by the Special Judge in Sessions Cases No. 1/1999 and 2/1999, arising out of RC No. 2(S)/97-SIU-I u/s 120-B read with Sections 302, 307, 394, 452 and 316 of the Indian Penal Code whereby the learned Special Judge has held the appellants, Raj Kapoor @ Raj Dahiya, Sanjay Singh and Anindo Ghosh, guilty of offence punishable u/s 120-B read with Sections 302, 307, 394, 452 and 316 of the Indian Penal Code. The appellants were also held guilty for the commission of substantive offences punishable under Sections 452, 394, 307, 316 and 302 read with Section 34 of the Indian Penal Code. Appellants, Raj Dahiya, Sanjay Singh. and Anindo Ghosh were individually held guilty for the offence punishable under Sections 302/316 of the Indian Penal Code and Section 27 of the Arms Act, 1969 as amended. Appellant, Raj Dahiya, was also held guilty for commission of offence u/s 279 of the Indian Penal Code.

2. The learned Special Judge by order dated 15.1.2002 sentenced the appellants

as under:

Accused Raj Dahiya @ Raj Kapoor @ Raj Kumar @ Raju convicted for having committed offence punishable u/s 120-B read with Sections 302, 307, 394, 452 and 316 of the IPC is sentenced to undergo imprisonment for life and to pay a fine of Rs. 20,000/- or in default simple imprisonment for four months. He is also sentenced for having committed offences punishable under Sections 302, 452, 394, 307 and 316 read with Section 34 of the IPC with imprisonment for life and to pay a fine of Rs. 30,000/- or in default simple imprisonment for six months; and for substantive offence punishable u/s 302 of the IPC, he is sentenced to imprisonment for life and also to pay a fine of Rs. 50,000/- or in default simple imprisonment for nine months. It is further directed that if fine is recovered, it shall be paid to the next kiths and kins of deceased Vijay Kumar @ Bikau. Since he has also been held guilty for having committed an offence punishable u/s 279 of the IPC, he is sentenced to pay a fine of Rs. 1,000/- or in default he shall further undergo simple imprisonment for one month. All the substantive sentences shall run concurrently.

Accused Sanj ay Singh @ Tutu convicted for having committed offence punishable u/s 120-B r/w Section 302, 307, 394, 452 and 316 of the IPC is sentenced to undergo imprisonment for life and to pay a fine of Rs. 10,000/- or in default S.I. for two months.

He is also sentenced for having committed offences punishable u/s 302, 452, 394, 307 and 316 r/w Section 34 of the IPC with imprisonment for life and to pay a fine of Rs. 15,000/- or in default S.I. for three months and for offences punishable u/s 307, of the IPC, he is sentenced to imprisonment for life and also to pay a fine of Rs. 15,000/- (Rupees Fifteen thousand only) or in default S.I. for three months.

For offence punishable u/s 316 IPC, he is sentenced to undergo rigorous imprisonment for 10 years and also to pay a fine of Rs. 10,000/- or in default S.I. for two months.

It is further directed that if fine is recovered, it shall be paid to the injured/victim Smt. Mamta Shukla (PW-2)

All the substantive sentences shall run concurrently.

Accused Anindo Ghosh @ Ghoshda, convicted for having committed offence punishable u/s 120-B r/w Section 302, 307, 394, 452 and 316 of the IPC is sentenced to undergo imprisonment for life and to pay a fine of Rs. 3000/- or in default S.I. for one month.

He is also sentenced for having committed substantive offences punishable u/s 302, 452, 394, 307 and 316 r/w Section 34 of the IPC with imprisonment for life and to pay a fine of Rs. 7,000/- (Rupees seven thousand) or in default, S.I. for two months.

Accused Anindo Ghosh has also been held guilty individually for having committed an offence punishable u/s 27 of the Indian Arms Act for which he is sentenced to Rigorous imprisonment for one year and to pay a fine of Rs. 500/- (Rupees five hundred) only or in default S.I. for one week.

All the substantive sentences shall run concurrently.

It is further directed that if permissible, the offenders/convict shall be entitled to the benefit of set off in accordance with law. All the three accused are in custody. They shall serve out respective sentences as recorded in this case above.

3. Brief facts of the case, as have noted by the learned Special Judge, are as under:

The prosecution case, in brief is that during December 1996 to January, 1997, A-1 to A-4, entered into criminal conspiracy, at Delhi, in pursuance whereof, accused No. 1 to 3, committed trespass into the house E-65, Nanakpura, Delhi of Sh Amitabh Shukla (PW-1), on 21.1.97, at 11 AM with intent to commit robbery, assaulted the inmates and inflicted stab wound injuries to Snlt. Mamta Shukla (PW-2), W/O Sh. Amitabh Shukla, who was at advanced stage of pregnancy. Their servant Sh. Vijay Kumar @ Bikau who intervened was also stabbed severely. Sh. Vijay Kumar succumbed to the injuries on the same day after being admitted in the Safdarjung Hospital. 30 weeks old foetus which Smt. Mamta Shukla, was carrying, also received multiple injuries, which had to be removed from the uterus having died due to the stab wounds inflicted on Smt. Mamta Shukla,

Prosecution story goes back to the year 1993-94, when accused No. 2 and 3, were studying in Ramjas College, Delhi and staying in the hostel of the college. Accused No. 3, who owned Motor Cycle BE 1C -2076, had been visiting house of Mr. C.P. Singh, at 1576, Sector 26, Faridabad, along with accused No. 2 Smt. Sushma Singh, cousin sister of accused No. 2, is married to Sh. C.P. Singh. Accused No. 3 and Vijay Kumar, Babloo, S/o Sh. C.P. Singh, had also worked together in Polar International from November 1995 to June 1996. Accused No. 2 and 3 came in contact with accused No. 1, who is a close friend of Vijay Kumar @ Babloo and also his next door neighbour. Accused No. 1, was running service station at Shop No. 19, Rajindra Colony, Sector 28, Link Road, Bhatta No. 10, Faridabad, under the name and style of "Mot Line Services", Accused No. 4, was running a private mess at 6/54, Double Storey, Kingsway Camp and came in contact with accused No. 1 and 3 in December, 1996 through a common friend Sh. Chandan Kumar (PW-91), also a student of Ramjas College. During third week of November 96, accused No. 1 purchased a Fiat car, MARK FIAT No. MSS,8917, from Smt. Prem Shorey W/o Sh. Balbhadra Sain Shorie (PW-3), for Rs. 11,000/- and took delivery after making advance payment of Rs. 5000/-. He got it repaired bit sale letter and other documents were executed on 1.1.97, after he had paid the balance amount to Smt. Prem Shorey, Sh. B.S. Shorie (PW-3), husband of Smt. Prem Shorey, engaged Sh. Ram Prakash Saxena

(PW-4), as an agent for getting the said vehicle "registered in Delhi, but instead of getting the car registered with the Competent Authority, he prepared fake registration papers showing Delhi registrar on number of the said car as DL5 CB 8916, without the knowledge of Sh. B.S. Shorie (PW-3) and Smt. Prem Shorey, which. papers were supplied to accused No. 1.

Accused No. 2, a diploma holder in Export Management and accused No. 3, unemployed, since June 96, wanted to start export business in handicrafts and needed finances for the same. Accused No. 3, borrowed Rs. 1.25 lakhs from his in-laws for starting "MOT LINE SERVICES". Accused No. 4, who was running a private mess was not earning sufficient profit from the said business. Thus, all the four accused conspired amongst themselves, during December 1996 to Jan 97, to make easy money by committing robberies. Accused No. 1 and 2, procured 1 Dagger, 2 Knives, 180 ft. long cotton rope, adhesive tape, 4 pairs of surgical gloves, 2 country-made pistols, with 25 live cartridges of 315 bore; 1 country-made revolver with 13 live cartridges of 32 bore. Accused No. 1 to 3 planned a robbery at the house of Manjeet Singh Bedi but it could not materialise.

Accused No. 1 to 3 met accused No. 4 at his mess in the first week of Jan 97, and discussed the plan for committing robbery. Accused No. 4, informed them that Amitabh Shukla, (PW-1), husband of his relation sake, (muhboli) sister Smt. Mamta Shukla (PW-2), residing in E-65, Nanakpura, had accumulated huge wealth. He agreed to collect more information about it within one or two days. Accused No. 1 offered to provide his car for the commission of the offence. Accused No. 2 and 3 in order to acquaint with the exact location, visited Nanakpura and nearby areas on motor-cycle No. BR 1C 2076, belonging to accused No. 3; To materialise their plan of committing robbery, all the accused prepared a fake parcel by putting brick and newspapers inside it, addressed the Parcel to Sh.Amitabh Shukla, purported to have been despatched by Sh. A.K. Jain of Kanpur in order to gain entry into the house of Sh. Amitabh Shukla. This preparation was made at B-3/15, Model Town, New Delhi belonging to Sh. Ajit Singh, whereafter parcel was removed to the mess of accused No. 4.

On 20.1.97, accused No. 1, in his aforesaid car with fake number plate No. DNH-0918, along with accused No. 2 and 3, went to the mess of accused No. 4. Accused No. 2 collected the parcel from accused No. 4. Then accused No. 1 to 3 went to room No. 68 of Ramjas College Hostel and after instructing its allottee ilitesh Sharma, to keep open the door of his room, returned to the mess of accused No. 4. All the four accused took their meals together and finalised their plan to commit robbery in the house of Sh. Amitabl Shukla. Thereafter, accused No. 1 to 3, went to room No. 68 of Ritesh Sharma and stayed there in the night. On the morning of 21.1.97, accused No. 1 to 3, left Ramjas College Hostel, in the car of accused No. 1 and reached Nanakpura market, near the house of Sh. Amitabh Shukla (PW-1). They reached Post office, situated near Nanakpura Market and took tea at the Rehri of (PW-69), Sh. Jogeshwar Parshad Gupta. Sh. Amitabh Shukla had left his residence for office at about 10.30 AM, in his official

vehicle, leaving behind his wife Smt. Mamta Shukla (PW-2), son mihir and servant Vijay alias Bikau (deceased) at home. Accused No. 1 to 3, reached near the residence of Sh. Amitabh Shukla and parked car bearing No. DNH 0918 nearby. They gained entry into the drawing room on the pretext of delivering parcel carried by accused No. 1. Accused No. 3 was carrying a fake typed list purported to be of some courier company, containing names and addresses of the addresses of parcels with signatures of some of the addressees. Accused No. 2 followed accused No. 1 and 3, and entered the drawing room of Sh. Amitabh Shukla (PW-2). Accused No. 3, bolted the door from inside. While Mamta Shukla was looking the list purported to be of a courier company and her son and servant were also there, accused No. 2, over-powered her, stabbed her with dagger on her neck and commanded her to hand-over whatever cash was there in the house. Mamta Shukla (PW-2) put-up stiff resistance and tried to get herself released from accused No. 2, whereupon accused No. 3 caught hold of her hands. Her son Mihir started crying. Accused No. 3, caught hold of Mihir and gagged his mouth with his hands while guarding entrance to the drawing room. On intervention by Vijay, Accused No. 1, stabbed him severely with knife. Accused No. 2 inflicted multiple stab wounds on different parts including abdomen of Mamta Shukla. Sensing trouble from neighbours, accused No. 1 to 3, escaped in Fiat Car, bearing fake number plate DNH 0918, leaving behind dagger and fake parcel. After the police reached the place of occurrence. Mamta Shukla was taken to Holy Angles Hospital, by HC Shambhu Dayal, and Sh. Vijay @ Bikau was taken to Safdarjung Hospital by HC Surendra Pal.

While escaping, accused No. 1 was driving Fiat Car, which collided with a Maruti Van No. DL3CF, 6508, near Mool Chand Fly Over. Leaving behind Fiat Car, he fled away in order to screen himself and others. On receipt of information of the accident, HC Himmat Singh along with Constable Rajbir Singh, reached the spot of accident where K. Prema John, driver of Maruti Van DL-3-CF-6508, lodged complaint, on the basis of which, case F.I.R. No. 66/97, u/s 279 IPC was registered at P.S. Defence Colony on 21.1.97, HC Himmat Singh took possession of abandoned car No. DNH-0918 and Maruti Van DL3CF 6508. Blood stained clothes and other articles lying in the Fiat Car were seized by HC Himmat Singh. After the investigation was taken over by the prosecution (CBI), this car was seized in this case on 22.1.97. On thorough inspection of Fiat Car, blood-stained papers, typed list purported to be of Courier Company, pamphlets of "MOT LINE SERVICES", fake number plate DL5CB 896, etc., were recovered therefrom,

Smt. Mamta Shukla (PW-2), remained admitted in Holy Angles Hospital, from 21.1.97 till 31.1.97. Various injuries were found on her person, caused by knife, which were of a grievous nature and could have proved dangerous (fatal). Sh. Vijay, who was employed as domestic help with Sh. Amitabh Shukla and was admitted in Safdarjung Hospital, who had succumbed to his injuries on 21.1.97, was found to have suffered multiple stab-injuries and died the same day. As per his post-mortem report, there were 11 stab-wounds/injuries caused by sharp cutting weapon-like knife or dagger and injury No. 2, 3, 4, 7 and 8 to the

underneath structure, individually and collectively were opined sufficient to cause death in the ordinary course of nature. Post-mortem of male foetus of Smt. Mamta Shukla was found to have suffered 3 stab sound and its death was opined to have been caused due to haemorrhagic shock as a result of stab injuries to uterus and placenta of Smt. Mamta Shukla.

Accused No. 1 to 4 were arrested on 23.1.97 from different places. Accused No. 1 to 3, refused to participate in test-identification parade. On 25.1.97, accused No. 1 disclosed that he had concealed blood stained sweater, shirt and blue jeans pant, which he got recovered the same day. On 3.2.97, he also made disclosure of having Suffered injuries on his left and right hand while grappling with deceased Vijay kumar @ Bikau and pointed out CGHS dispensary, Andrews Ganj, from where he had got dressed his injuries on 21.1.97, under assumed name of Sanjay. He was taken to Safdarjung Hospital, where Doctor opined the injuries on index finger, middle finger, right finger and palm of left hand and injuries on little finger, middle finger, ring finger and thumb of right hand could have been caused by sharp edge weapon. On 22.1.97, accused No. 1 made extrajudicial confession, before his friend Vijay Kumar (PW-81) and his sister Sunita and Sunita's husband, Raj Kumar Rohlania, admitting his involvement in commission of crime, along with accused No. 2 to 4.

On 28.1.97, accused No. 2, made disclosure of having concealed his blood stained pant, shoes, socks and got recovered the same. He also made disclosure and pointed out Shorthand College from where he had got typed fake list purported to be of courier company; medical shop from where the purchased adhesive tape; place wherefrom he procured brick placed in the fake parcel: and stationery shop from where he had purchased sketch pen used in preparing fake parcel. Accused No. 2 and 3 pointed out the shop in Nanakpura Market from where they took juice on 10.1.97, while surveying the area, around house of Sh. Amitabh Shukla. They also pointed out tea-shop in Nanakpura market where accused No. 1 to 3, had-taken tea before proceeding towards at the house of Amitabh Shukla. Accused No. 2 was found to have injuries on his right thigh and on the junction between left thumb and palm. On his medical examination, the doctor opined that the said injuries could have been caused by sharp-edged pointed object/weapon.

On 30.1.97, accused No. 3 made disclosure of having concealed knives, pistols, revolver, rope, surgical gloves, ammunition in Room No. 47, of Ramjas College, and got recovered the same, from there. On 5.2.97, accused No. 3, also made disclosure of having purchased brown and bond paper used in preparing fake parcel and pointed out the shop from where he had purchased the material, he also made disclosure of having concealed his motor-cycle No. BR-IC-2076 and got recovered the same. It was revealed that accused No. 1 had sustained injuries on his left hand and right thigh while grappling with Smt. Mamta Shukla, which he got dressed from Kapoor Medical Centre.

Finger-print expert of CFSL, New Delhi, opined that typed list purported to be of

courier company, recovered from Fiat car No. DNH 0918, contained left thumb impression and right index finger impressions of accused No. 2 and rear view mirror of said car bore left thumb impression of accused No. 1. He also opined that writings on fake parcel and signatures, purported to be those of addresses on typed list of courier company, were in the handwriting of accused No. 2 and that typed scripts purported to be typed list of courier company had been typed from typewriter make Facit 1720-IT-0231685-RD-No. 145039-1996 of Kindsway Shorthand College, Delhi. Ballistic Expert of CFSL, opined that two country-made pistols of 315 and revolver of 32 bore were in working order and were fire-arms as defined in the Arms Act.

After cognizance was taken and accused were summoned to stand trial, charges were summoned to stand trial, charges were framed against the accused by my Ld. predecessor on 25.7.97 as under:

(a) Accused No. 1 to 4 are charged for having committed offences punishable u/s 120-B Section 302, 307, 394, 452 and 316 of IPC.

(b) Accused No. 1 to 3 are charged with the substantive offences u/s 302, 452, 394 and 307 r/w Section 34 IPC.

(c) Accused No. 1 is also charged individually with substantive/offence punishable u/s 302 of IPC.

(d) Accused No. 2 is individually charged with offences punishable under Sections 307 and 316 of IPC.

(e) Accused No. 3 is also charged with individually for the commission of offence punishable u/s 27 of the Indian Arms Act of 1983.

(f) Accused No. 1 is also noticed separately u/s 251 Cr.P.C. on 25.7.97, for having committed an offence punishable u/s 279 of the IPC in case FIR No. 66/97, which was consolidated with case RC No. 2(S)/97-SIU-I vide order dated 18.9.97 with further observations that latter case would be treated as the main case and evidence in respect of both would be recovered in the main case to be read in both the cases.

All the accused pleaded not guilty to the respective charges and claimed to be tried.

4. The Prosecution, in order to bring home the guilt of the accused, cited as many as 118 witnesses and examined 106 out of them.

5. The appellants primarily have built their case on the hypothesis that they have been falsely implicated in this case due to suspicion and enmity between PW-2 and her so-called brother, Shailesh Kumar, who has since been acquitted of the charges of conspiracy. Counsel for the appellants submitted that the judgment of the trial court is based on conjectures and surmises inasmuch as the approach of the trial in appreciating the evidence is contrary to law and misreading of the material on record. Counsel submitted that the investigation has been unfair and

that there has been deliberate introduction of false material to bolster the case of the Prosecution. He submitted that even the test identification parade, which was sought to be held, was held after the Police had shown the accused to the witnesses. Counsel submitted that the testimony of PW-2, Mamta Shukla, is full of contradictions and improvements. As such this solitary witness is wholly unreliable, her testimony cannot form basis of conviction. Counsel also attacked the statement of PW-86, Vijay Kumar, and PW-91, Chandan Kumar, who have not supported their statements u/s 164 Criminal Procedure Code. He submitted that a back door entry of the statement u/s 164 of Criminal Procedure Code cannot be allowed nor used to substantiate the case of the Prosecution. Counsel also laid great emphasis that no weapon was recovered at the instance of the appellants and that the alleged blood stained clothes seized are of no consequence as blood group of the appellants was not ascertained. Counsel contended that since the co-accused, Shailesh Kumar, had been acquitted of the charge of conspiracy, the theory of conspiracy fails qua all the accused persons thereby leaving no substantive evidence to link the appellants with the motive.

6. With the aid of counsel for the parties, we have meticulously gone through the evidence on record and analysed the same. In the present case, we find that the Prosecution has been able to bring on record direct evidence against accused Nos. 1, 2 and 3, which is the testimony of PW-2, Mamta Shukla. Analysing her statement it appears that on 21.1.1997, Raj Dahiya and Anindo Ghosh sought entry into the house of Mamta Shukla on the pretext of delivering a parcel. Anindo Ghosh was carrying a slip purported to be from a courier company having the names and addresses of various persons and signatures of some of the persons thereon while Raj Dahiya was carrying the parcel.

7. Having gained access to the room, they followed Mamta Shukla to the drawing room. Mamta Shukla along with her son appeared from her bed room to the drawing room where the servant, Vijay, was also present. Sanjay Singh, accused No. 2, gained entry into the drawing room on which Anindo Ghosh bolted the door from inside. Mamta Shukla was still scrutinizing the paper on which she was supposed to affix her signatures when Sanjay Singh overpowered her and stabbed her around the neck with a dagger while ordering to hand over cash and jewellery available in the house. This witness put up stiff resistance whereupon Anindo Ghosh caught hold of her hands. During this melee the minor son of Mamta Shukla began crying. Anindo Ghosh thereafter caught hold of the child and gagged his mouth and pulled him towards the door of the room. Vijay, the servant, intervened upon which Raj Dahiya stabbed him several times with his knife. Vyay, on receiving injuries, ran towards the kitchen while holding the child. He is stated to have fallen down injured in the lawn.

8. Sanjay Singh, inflicted several stab injuries on the person of Mamta Shukla consequent to which her intestines came out and the foetus in her womb was injured. Unable to control the situation, the accused persons ran away from the spot during which time Mamta Shukla wrestled the dagger from the hand of

Sanjay Singh. The testimony of this witness finds corroboration from the medical evidence as also the statement of PW-17, Anita, who states that on 21.1.1997 at about 11 or 11.30 a.m. she was sitting in the garden of her house, E-49, Moti Bagh, South Nanakpura, New Delhi, when she heard noise from the residence of Smt. Shukla. Initially this witness suspected this as some retarded girl was crying as happened earlier, however, when the noise continued for sometime, this witness came towards her gate and found that Smt. Shukla was outside the entry door of her flat with hand in her stomach. She went towards Smt. Shukla and saw that she was holding a knife stuck in her stomach and was pointing towards the direction of a white or cream fiat car getting away. This witness tried to ascertain the number of the said car but could only read the number as "0918". In cross-examination, it has been elicited from this witness that this witness reached the spot at 11.30 or 11.45 a.m. and that within ten minutes the Police reached the spot and recorded her statement.

9. PW-2, Smt. Mamta Shukla, on other aspects finds corroboration in the testimony of PW-15, Surath Panda, PW-16, Dinesh Kumar, and PW-53, Suraj Parkash Kapur. From the evidence on record, it is established that after committing the crime all the three accused sped away in the fiat car which had a fake number plate "DNH 0918". Mamta Shukla was removed to the Holy Angel Hospital, Vasant Vihar, New Delhi by HC Shambhu Dayal while Vijay was taken to Safdarjung Hospital by HC Surinder Pal of PCR van. Vijay died in the hospital while Mamta Shukla survived. She was discharged from the hospital on 31.1.1997. The foetus of about 7-8 months died due to the injuries inflicted on her by the assailants.

10. It is in evidence that while fleeing from the spot of occurrence, the Fiat car driven by Raj Dahiya met with an accident and a case u/s 279/337 IPC was registered at Police Station Defence Colony.

11. To further substantiate the case of the Prosecution, the Prosecution has led evidence to establish that the action of the accused persons was preplanned inasmuch as the fiat car was used with the fake registration number plate, the accused were equipped with dangerous weapons, a fake parcel containing a brick covered with brown paper as also a typed courier list with fictitious names and addresses of persons having received articles was prepared.

12. PW-91, Chandan Kumar, deposed to the friendly relations amongst the appellants and that Sanjay Singh as also Anindo Ghosh were living in Ramjas College hostel during 1993-94. Raj Dahiya was running a service station under the name of "Hotline Service Station" at 19, Rajinder Colony. There is evidence on record to show that the fiat car was purchased by Raj Dahiya from Smt. Prem Shourey. He got the car repaired and sale letter executed on 1.1.1997. Raj Dahiya on 25.1.1997 made a disclosure statement which led to the recovery of blood stained clothes with a sweater, shirt and blue jeans from the house of Suresh. And also on 28.1.1997, Sanjay Singh made a statement that he had hidden his blood stained trouser, shoes and socks in the house of his friend,

Nagesh, which he was wearing on the day of the occurrence and got recovered from the house of Nagesh the said article. He also led the Police party to the Shorthand College from where he had got a fake list typed. Anindo Ghosh made a disclosure statement on 30.1.1997 that he had concealed knife, pistol, revolver, gloves and ammunition etc. in Room No. 47 of Ramjas College Hostel and led the investigating team and got the same recovered.

13. To prove the fact regarding disclosure made by Anindo Ghosh testimony of B.S. Dogra, PW-100, R.S.Dinkar, PW-83, Sh.Bhim Saxena, PW-49, Ashok Kumar, PW-99, and Dr. P.K. Panda, PW-19 can be pressed into service. Anindo Ghosh made another disclosure on 05.02.1997 and led the police party to the shop from where he had purchased the brown paper used to wrap the brick in order to gain access to the house of Smt.Shukla. Depositions of Madan Lal Gambhir, PW-42, J.C. Sharma, PW-46, Surinder Kumar, PW-51 and J.K. Mehra, PW-58, prove this fact.

14. The typed list of the so-called courier company was recovered from the car on 22.1.97 which bore the finger-prints of accused, Sanjay Singh. This was testified by S.K. Chaddha, PW-55. The writing on the parcel was proved to be of accused, Sanjay Singh through the testimony of Suresh Kumar, PW-25, O.P. Lohmor, PW-26, R.S. Punia, PW-56 and S.L. Mukhi, PW-71.

15. On 22.04.1997 blood stained clothes of Mamta Shukla, PW-2 were also sent to CFSL. On the same day blood stained clothes of accused Raj Dahiya recovered at his instance were sent to CFSL. Upon analysis it was found that they contained human blood of group "O" which matched that of Mamta Shukla, PW-2.

16. Taking the evidence brought on record by the prosecution in its entirety, we find that PW-1, Sh. Amitabh Shukla has identified the dead body of Vijay, the servant. PW-2, Mamta Shukla identifies all the accused who intruded in her house on 21.1.1997 and has give graphic picture of what occurred in her house at that time. She has identified accused No. 2, Sanjay Suri, as the person who stabbed her and states that this accused put a dagger to the right side of her neck, while directing her to keep quiet and deliver cash and valuables available in the house. She also stated that the accused stabbed her in her abdomen on account of which the 7 months old foetus, she was carrying, was killed. She also identifies the dagger which was used to inflict wounds on her. This witness identifies Anindo Ghosh as the one carrying the sheet of paper requiring her signatures. She also states that this accused held her hands from the front and later on caught hold of her. son and gagged him while taking him towards the door of the living room. This witness also identifies Raj Kapoor to be the one who stabbed Vijay Kumar.

17. PW-8 and 9 depose to the effect that Raj Dahiya owns MOTLINE SERVICES" stationed at Rajindra Market, Faridabad and had got some electrical work done on the Fat car. PW-11, Head Constable Himmat Singh deposes to the receipt of DD No. 26B dated 21.1.1997, police station Defence Colony and about the fact of

recording of statement of Constable Premajan. He also states about the seizure of the Maruti van as also the Fiat car. He identifies the articles/clothes recovered from the Car.

18. PW-3 as also PW-4 are witnesses to the sale and registration of the Car. PW-5, Constable K-Premajan, states about the striking of the Fiat car No. DNH-0918 against the Maruti van, DL-3CF-6508 on 21.1.1997 in front of B-4, Defence Colony, New Delhi. He identifies the accused as the driver of the Car DNH-0918. He also deposes to the lodging of the complaint and about the seizure of the Car and the Maruti van. PW-7, Bhim Singh Chadha, deposes to the effect that "MOTLINE SERVICES" was owned by Raj Dahiya who had affixed a silver colour film on the windows of the Car.

19. PW-12, Head Constable Rajinder Singh, deposes to the handing-over of the case property of F.I.R. No. 66/97, police station Defence Colony to DSP, B.S.Dogra, CBI. PW-15, Surath Panda deposes to the effect that he heard noise of shouting from E-65, Nanakpura on 21.1.1997 and he saw the servant coming out of the rear door of the colony with a small child and thereafter fell to the ground. He also saw Mamta Shukla lying in the verandah of the front door as also the blood stained knife lying nearby. He is witness to seeing the blood in the verandah and the clothes of Mamta Shukla soaked with blood. PW-16, Dinesh Kumar also deposes to the same effect.

20. PW-17, Ms.Anita, heard noise coming from the flat of Mamta Shukla and thereafter saw Mamta Shukla coming out of the house holding her abdomen. Mamta Shukla was badly injured and was pointing to a get away Car, the number of which was noted as"0918", white colour Fiat.

21. From the totality of the evidence, gist of which we have already discussed above we find that the prosecution has brought home the guilt of the accused. The trial court judgment which elaborately deals with the evidence on record cannot be faulted on any account. We are in complete agreement with the analysis and the deduction thereof by the learned Additional Sessions Judge.

22. In view of the direct evidence of the injured witness the criticism of learned Counsel for the defence to the manner of arrest and/or recoveries, loses significance. Consequently, we find no error in the-judgment under challenge. The judgment of conviction dated 22.12.2001 is upheld. Since all the accused came together armed with deadly weapons to commit the crime charged of and used the weapons in the execution of the crime the argument that each be dealt for his individual acts loses significance. The order of sentence dated 15.01.2002 is also upheld. The appeals are dismissed.