

PETITIONER:
S.K. NAIR

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT: 05/11/1996

BENCH:
G.N. RAY, B.L. HANSARIA

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

G.N. RAY, J.

This appeal is directed against the judgment dated 3.3.1987 passed by the Punjab and Haryana High Court in Criminal Appeal No. 117 DB of 1986 affirming the conviction under Section 302 IPC and consequential sentence of imprisonment for life and fine of Rs. 2,000/- in default further rigorous imprisonment for six months and conviction under Section 324 IPC and consequential sentence of six months rigorous imprisonment passed by the learned Sessions Judge, Bhatinda, in Sessions case No. 24 of 1984.

The appellant Sri S.K. Nair was charged for committing murder of Naik B. Chowdhury and causing injuries with a 'khukri' (Nepaleese dagger) on Havildar P.P.S. Kashyap and the driver Joga Singh within the barrack in the Air Force Station, Bhisana in the early morning of August 13, 1982. The prosecution case in short is that the accused S.K. Nair and the deceased B. Chowdhury and the injured Havildar P.P.S. Kashyap used to stay in the same barrack being barrack No.19 in the said Air Force Station, Bhisana. The deceased Naik B. Chowdhury was to proceed on leave with effect from August 13, 1982 and the driver Joga Singh was deputed to pick up the said Naik Chowdhury at 5 A.M. on August 13, 1982 and to prop him at Ambala Railway Station. The said Naik Chowdhury requested Havildar P.P.S. Kashyap to wake Sri Chowdhury for the second time at about 4.45 AM., he noticed the accused sitting on his cot with a 'khukri' in his right hand being taken out of its sheath. The accused inflicted two khukri blows on the head of the said Kashyap who then raised noise and the deceased B. Chowdhury and Mr. Suresh Kumar got up from sleep and noticed that the accused was giving blows with khukri to the said Sri Kashyap. Sri Kashyap however could manage to go out of the barrack through a window. The deceased B. Chowdhury caught hold of the accused and told him that he would be produced before the officers. The accused then retorted that he would be produced before the officers only if Sri Chowdhury was alive by then. Saving this, the accused started inflicting khukri blows on the person of the deceased and dealt 19 blows on different parts of his body. As a result

the said Sri Chowdhury died on the spot. Joga Singh driver reached by that time and when he tried to stop the accused, he was also attacked by the accused and Joga Singh suffered one khukri blow on his right flank and he then ran but of the barrack. Both Sri Kashyap and Joga Singh went to M.I. Room where they were treated by Dr. R.K. Bhattacharji. Thereafter, the Security Officer, Sri G.S.R Sharma and Sergeant Benedict along with R.K. Bhattacharji came to barrack No.19 and found the dead body of the said Sri Chowdhury and they also found that the accused in military uniform was standing with a khukri in his hand. The accused surrendered himself to the security officer and handed over the khukri to him. The accused was formally arrested by S.I. Balbir Singh and inquest or the dead body was held and the dead body was sent for postmortem examination. The post-mortem examination revealed that the deceased had suffered 19 khukri blows on various parts of his body and the doctor holding post-mortem and they were sufficient to cause death in the ordinary course of nature and also opined that on account of such injuries, the death was instantaneous.

It may be stated here that the accused denied the charges and pleaded false accusation against him in his statement under Section 313 of the Code of Criminal Procedure. The accused examined Lt, Col, H.B. Chkraborty as a defence witness.

The learned Additional Sessions Judge, considering the evidences of the injured eye-witnesses and other evidences adduced in the case, held the accused guilty of the offences under Section 302 and 324 IPC and passed the aforesaid sentences against him. On appeal before the High Court, the convictions and sentences passed against the accused were uphold. Both the learned Sessions Judge and the High Court did not accept the contention made on behalf of the accused that the accused being a confirmed paranoid was not in normal frame of mind and was incapable of understanding what he had been doing at the time of commission of the said offences. It has been indicated by the courts below that at the relevant time, the words and actions of the accused clearly demonstrated that he was quite capable of understanding the nature of his activities. Accordingly he was not entitled to the benefit under Section 84 IPC.

At the hearing of this appeal, the learned counsel appearing for the appellant has submitted that the prosecution case that it was the accused who had caused the death of the deceased by inflicting khukri blows and had also caused injuries on the said Sri Kashyap and Sri Joga Singh has been established by leading evidences of the eye-witnesses and such finding can not be assailed in the facts of the case. But the learned counsel for the appellant has submitted that the mental frame of a paranoid had not been appreciated by the courts below.

The learned counsel has submitted that a paranoid is not only a person of unsound mind but a paranoid suffers from special and peculiar ideas and visions which are different from other persons of unsound mind. As a result, a paranoid within moments may completely lose his normal frame of mind and be seized of special emotions thereby impelled to behave wildly and such sudden fit of emotion may also vanish within moments. For a paranoid, there is no lucid interval as may be found in other cases of insanity or in persons afflicted by unsound mind.

It has been contended by the learned counsel for the appellant that the accused appellant was a confirmed patient diagnosed as paranoid. He was repeatedly treated as an indoor patient for such mental disease and the doctor who

had treated the accused gave opinion that the accused should be discharged from service. Such facts have clearly established from the record of his treatment and the deposition of Lt. Col. Chakraborty. It is unfortunate that despite such medical reports and the opinion of the doctor, the accused was retained in service and he was allowed to be exposed to the grave risk to himself and also to others with whom he was staying in the barrack.

The learned counsel has also submitted that it is revealed from the depositions in the case that the appellant was in friendly terms with the deceased and the said injured. Havildar Kashyap. No motive has been ascribed, which was likely to impel the accused to commit the said offences. It is quite evident that all of a sudden the appellant attacked Sri Kashyap with Khukri and when the deceased caught hold of the accused, he was also attacked and Joga Singh was also attacked when he tried to stop the accused. The fact that the accused again became normal, when the sudden impulsive bout disappeared, is also demonstrable from the fact that when the superior officers came to the barrack, they found him dressed in military uniform and he handed over the Khukri to the superior officer and also surrendered without any attempt of resistance. The learned counsel has submitted that if the peculiar traits of a paranoid were considered by the court in the light of recognised medical literatures on a paranoid, the courts below would not have committed the error in rejecting the plea of protection under Section 84 IPC by erroneously applying the usual test in other cases of persons with unsound mind. The learned counsel had, therefore, submitted that the accused being unfortunate victim of a particular mental disease deserves to be acquitted by giving him the protection under Section 84 IPC.

We have given our carefully consideration to the facts and circumstances of the case and evidences produced. We are, however, unable to accept the submission of the learned counsel that being a paranoid, the appellant must be presumed to have committed the said offences being seized of sudden impulsive fits of passion for which temporarily he was completely incapable to understand as to what he had been doing with what consequences. Even if it is assumed that in the case of a paranoia, the ordinary test of lucid interval as applicable in the case of patients with unsound mind, is not to be applied, and a paranoid is likely to be seized of sudden bouts of impulsive feats for which temporarily he becomes completely incapable to understand the implication of his activities, and such sudden bouts may also disappear within a very short time, in the instant case, it has been revealed from the evidences adduced that at the time of commission of the said offences, the appellant did not completely lose his sense of understanding. When the deceased caught hold of him and told that he would be taken to the officers, he retorted that the deceased could do that if he was alive then and so saying inflicted khukri blows on him. Such words and acts only demonstrate that at the time of commission of the offences, he could explain his intended action with logic. Hence, it is not necessary to consider the probabilities which may happen with a paranoia. In the facts of the case, it has been clearly established that the accused was not incapable to understand the implication of his acts. Hence, no interference is called for in this appeal.

The appeal is, therefore, dismissed.

JUDIS