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CERTIFICATE

This is to certify that MR.VINEETH K 2338058,MS VINYASA CHOWTA 2338059,MS WILONA D MELLO 2338060,MR WILSON A 2338061,MS ALISHA SERRAO 2338062,MS LEEZAL D SOUZA 2338063 ,MS ADITHYA MANOJ 2338064,have successfully completed the project work on the topic titled "THE TANDOOR MURDER CASE" under my guidance .This Project Report is submitted to ST.Aloysius College (Autonomous) ,Mangalore as a part of continuous assessment.

DATE:4-11-2023
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PROJECT GUIDE
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ESTD : 1880

ST ALOYSIOUS COLLEGE (AUTONOMOUS) MANGALORE
CASE STUDY OF TANDOOR MURDER CASE

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INTRODUCTION

What happens when you find your beloved partner engaged in a deep telephonic conversation with a person of opposite sex? You choose to shoot your partner in a fit of rage, chop the body into pieces, and to destroy the evidence you go ahead and burn the entire corpse in a “Tandoor”. This is what happened exactly in the case of Sushil Sharma and Naina Sahni. Naina Sahni’s murder remains one of the most sensational cases for the criminal and justice system. Discovering a burnt body of a woman chopped into pieces in a tandoor of a restaurant in Delhi indeed shook the country’s conscience to a complete new level. Sushil Sharma’s sudden fit of rage, the consequences that lead him to shoot his wife and then brutally burn her corpse in a tandoor, are discussed in details in this project report. Further in the project, the legal issues are discussed as was discussed in the court proceedings. The accused was first awarded a death sentence by both the trial court and the Delhi High Court managed to stretch such a case close to a decade; and later the Supreme Court overruled the judgment commuting it to a life sentence. The mystery is not the case but the fact that it took such a stretch of time to come up with a judgment. The project talks about various such parameters other than the facts of the case (though mentioned) which made this case’s final judgment a little too tough to digest.



LITERATURE REVIEW

1. Taxmann's Criminal Major Acts:- Indian Penal Code, [Section 34](#) which says when a criminal act is done by several persons (in this case Sushil Sharma along with the employee of Bagia Bar-be- Que, Keshav Kumar), each having common intention have the same amount of liability as one would have had if done by one person alone. Also referring to [Section 37](#), it says that if any kind of cooperation is done intentionally for committing a crime is also punishable as committing an offence. Chapter VA talks about Criminal Conspiracy in which [Section 120B](#) highlights the punishment of the conspiracy which is either imprisonment or fine or both. From Chapter XI, [Section 201](#) which talks about causing destruction/ disappearance of evidence, or giving false information to hide the offender, the offence of Keshav Kumar was understood.

2. A manual on Indian Evidence Act by Dr. Gokulesh Sharma and Hemant Kumar Pandey:-

[Section 30](#) has been taken into from this book on Indian Evidence Act, 1872 which says when one or more persons are tried jointly for the same offence and a confession is made by one of them, and is proved, then the court may take into consideration such confession against both the tried persons.

3. Behind Bars:-

Prison Tales of India's Most Famous by Sunetra Choudhury, Roli Books The book effectively explains the most sensational criminals of India and their life behind bars. From the comfort of the life of a successful politician to a life of being a person in jail with other criminals, Sushil Sharma popularly known "Tandoor Sharma" explains how he lived his life inside. The way Sushil carefully planned his days inside in jail these 21 years of being behind bars gives the book an edge over other such kind. There are various comments made by him on the way the prison and its authorities function. Sharma states his strategies to deal the days in there for the next whatever years he is alive. He was also one of the prisoners who were not out on parole for a stretch of 21 years straight. Sharma as mentioned in the book has also compared the American prison with that of India and how our system allows loopholes in the prison. Shocking yet a lot of true incidents are revealed from the prisoners in this book. The book talks about the class difference that exists in the prison.

FACTS OF THE CASE

The case is of a heinous murder of a wife (Naina Sahni) by the husband, Sushil Sharma, of course with the involvement of “Tandoor” which will be addressed in the later part of this. Sushil Sharma was the President of Delhi Youth Congress at the relevant time (1992), a commerce graduate from Delhi University.

Naina Sahni (the deceased) also a Delhi University Graduate, was the former General Secretary of the Delhi Youth Congress Girls Wing. It was said that Naina Sahni used to visit accused Sushil Sharma at the office of Youth Congress in New Delhi.

In the year 1992, accused Sushil Sharma obtained a flat at Mandir Marg where Naina Sahni used to visit frequently and at times “she used to stay back at night as well”, as said by the neighbors. Later, Sushil and Naina are said to have married in that residence “in their own way”, which suggests that they had a secret marriage² hidden from the public; however, the marriage had the consent of both the parties, Sushil and Naina, also including Naina Sahni’s parents. Thereafter, Naina continued to live in the said flat, claiming to be Sushil’s wife, till she was murdered. Coming to the “Tandoor” part of the case, the Indian Tourism Development Corporation (ITDC) which was running a unit called Ashok Yatri Nivas entered into a license agreement with Sushil Sharma and others for a restaurant called as the Bagia Bar-be-Que Restaurant.

Being a political figure Sushil Sharma wanted to keep their marriage a secret which was not accepted by Naina Sahni also he suspected the character of his wife and restricted her freedom because of it. With growing tensions between the couple, Sushil and Naina’s married life became a strained one, where the wife was said to have been trying leaving the husband and moving to Australia with the help of her friend Matloob Karim (a fellow Congress worker and colleague).

ON THE DAY OF THE MURDER:-

After 3 years of their “secret” and strained marriage, on 2nd July 1995, Sushil Sharma reached his Mandir Marg flat to find Naina deep in conversation with somebody on the phone. On seeing Sharma, panicked Sahni disconnected the call. Suspicious, Sharma redialed the number after she ended the call and found that it was Matloob Karim, her fellow mate. Sushil Sharma suspected his wife having an affair with Mr. Karim.

The marriage as stated was already strained as Sharma wanted to keep it a secret owing to his political ambitions. It was also known from neighbors that Sharma hit his wife regularly and spied his wife through their servant. Enraged, Sharma took out his licensed revolver and shot Naina thrice two bullets hitting her head and neck, and the third bullet struck the air conditioner. Sahni died on the spot. True , you suspect your partner having an affair, what a reasonable man would do is murder, but what comes next is what shook the legal and judicial fraternity to the next level. Sharma then carried her body to the restaurant, covered in a black plastic, in the dicky of his Maruti car, which he owned, Bagia Bar-be-Que where he chopped the corpse into pieces and dumped it in the Tandoor.

The execution of the Tandoor burning was carried out with the help of the co-accused Keshav Kumar (restaurant employee). Later the same person upon being interrogated by the police he claimed that, he “was burning old Congress banners.”³ Meanwhile when the body was dumped in the barbeque, it released a huge amount of fire and smoke in the restaurant which attracted the attention of the passersby and also the people in the restaurant.

Seeing the unusual fire and smoke, a police constable reports the situation to which police reach the restaurant. Meanwhile when the police was trying to figure out the cause of the fire in the restaurant, Sushil Sharma flees from the crime scene.

The police noticed in the embers a human body particularly of a woman whose limbs tore apart and her intestines spilling out. Near the Tandoor was spotted black polythene and noticed bloodstains on it. Later, blood stains on Keshav's clothes were seized and also that he helped the criminal escape from the crime scene and helped Sharma get rid of the corpse made him the co-accused. Sushil Sharma fled to various cities thereafter (Jaipur, Mumbai, Chennai, Bangalore) finally surrendering in Bangalore on 10th July 1995.



The facts that have been established and agreed upon without a scope of doubt are as follows:-

- 1) The appellant Sushil Sharma was the owner of a restaurant by the name of Bagia Bar-be-Que in the compound of Ashok Yatri Niwas at Ashoka Road, New Delhi and his co-accused Keshav Kumar was one of the employees kept there by Mr. Sharma.
- 2) On the night of 2nd July, 1995 (Sushil Sharma Vs The State of NCT of Delhi 2013) a body of a female was being burnt on the tandoor of the said Bagia Bar-be-Que by the appellant and his employee Keshav Kumar.

3) At the time of post-mortem examination of the charred corpse of that unfortunate woman bullets were noticed embedded in the skull and neck region and those bullets were found by the ballistic expert to have been fired from the .32" Arminus revolver which the appellant admittedly possessed during those days.

4) The woman whose body was being burnt had met with homicidal death.

5) Appellant Sushil Sharma was living in flat, Mandir Marg, New Delhi with Naina Sahni d/o Shri Harbhajan 3 As reported by the police, present in Connaught Place, New Delhi. Jaswant Kaur and both of them were seen together in the said flat in the evening of 2nd July, 1995 and after that day Naina Sahni was not seen alive by anyone.

6) Sushil Sharma was suspecting that Naina Sahni was having affairs with other person and Naina Sahni had started telling Sushil Sharma to declare publicly that they were husband and wife which he did not want to do and so he had a strong motive to kill her.

7). On 4th July, 1995 five fired cartridge cases of .32" and one lead bullet of .32" and some blood stained articles were recovered from flat, Mandir Marg, Gole Market, New Delhi and those cartridge cases and lead bullet were also found by the ballistic expert to have been fired from the licensed Arminus .32" revolver of Sushil Sharma and the blood on different articles was found to be of AB Group which was the blood group of Naina Sahni.

8) The appellant Sushil Sharma had after his arrest got recovered one blood stained kurta from the area of Rangpuri in Delhi while in police custody.

9) The charred corpse lifted from the tandoor of Bagia Bar-be-Que on the night of 2nd/3rd July, 1995 was found to be that of Naina Sahni.

LEGAL AND STATUTORY ISSUES

1. The motive of the crime was on grounds of Sharma doubting his wife's character. The Legal issue involved here was that the case was put up on the circumstantial evidence (DNA) and second autopsy. The accused was proved guilty on grounds of these only.

2. Strained interpersonal relationship between husband and wife led to the outrage, further sudden provocation, in a fit of rage which made him commit such a heinous crime.

3. Conspiracy to cause destruction of evidence of murder.

4. Section 34 of the Indian Penal Code says, when a criminal act is done by several person with that of a common intention of all, each of such person is liable for that act in the same manner as if it were done by him alone. Also [Section 37](#) of IPC says intentional cooperation in a commission of an offence of another also constitutes an offence; which was the case with Sushil Sharma (the accused) and Keshav Kumar (restaurant employee).

5. [Section 120 B](#) of IPC talks about punishment of Criminal conspiracy. The very act of Keshav Kumar who helped Sharma burn the pieces of the corpse in the Tandoor constituted his facilitate the murder and later helped him flee from the crime scene, hence liable for punishment. Keshav Kumar (the co-accused) who helped Sushil disappear from the restaurant and also helped him destroy the corpse was also charged under the [Section 201](#) of IPC because he caused the disappearance of evidence with the intention of hiding Sushil from legal action and also he lied about the burning saying it to be old Congress posters, therefore gave an information to the police which was false.

Sushil Sharma had a very smooth escape from the restaurant with the aid of Keshav Kumar which comes under [Section 212](#) which says harboring an offender with the intention to screen him from legal punishment shall be punished as mentioned in the [Section. 8](#). Punishment for murder under [Section 302](#) of IPC which says whoever commits the murder is to be punished with death or imprisonment for life and will also be liable to fine.

GOVERNMENT WORK ON DEMOLISHING DOWRY

1. Mahendra Nath Dass vs. State of Assam, AIR 1999 SC 1926: - In this case the convict killed the deceased with a sword, amputated the hand, cut the head off, and then took the dismantled body royally to the police station. Thereby, the Supreme Court held that the act was of extreme depravity and the accused is entitled for death penalty. In the present case of Naina Sahni, we find that even this was an act of extreme immorality; however, the Honorable Supreme Court chose to commute the death penalty awarded to Sushil Sharma.

2. Mohd.Chaman vs. State (NCT of Delhi) SC 2000: - In this case the appellant has raped a one year old girl, who caused her injuries, ultimately leading to her death. The trial court though sentenced him with death penalty and the High Court confirming it, the Supreme Court held that the appellant was not a threat to the community and thereby set aside the death penalty and commuted to life imprisonment.

3. Santosh Kumar Satish bhushan Bariyar vs. State of Maharashtra: - In this case, the appellant and others were in search of job and they planned to kidnap a friend of theirs, ask for ransom thereafter. Instead they ended up murdering him and cut his body to pieces and disposed it off to various places. One of the accused gave the evidence against the appellant thereby awarding him with death penalty. The High Court confirmed the death penalty. However, the judgment was overruled by the Supreme Court saying that the method of disposing the body does not include the case for the rarest of the rare principle and also there is scope of reformation on the part of the accused.

Therefore, death penalty was commuted to life imprisonment. 6.5 Chapter IX, of false evidence and offences against public justice-Causing disappearance of evidence of offence, or giving false information to screen offender (Sec.201 IPC), Taxmann's Criminal Major Acts. 6 Taken from the e-database Lexis Nexis – the Supreme Court's judgment on various similar cases (as referred in Sushil Sharma vs. Sate of NCT Delhi 2014

ANALYSIS AND COMPARISON

Overview Absence of cordial relationship- suspicion of extra marital affair on wife- regular beatings and spying by servant- Murder of wife- circumstantial evidence and motive- shot by revolver of the husband - after murderbody chopped and burnt in Tandoor – common intention and disappearance of evidence- hence the guilt proved- awarded death sentence by the Sessions Court and High Court- commuted to life imprisonment by the Supreme Court.7 Points to be pondered on

1.This was a clear case of homicidal death of a wife who was murdered by the husband in a fit of rage because of him doubting her having an affair. However the case took over a decade to bring out the proper judgment. The question which thus strikes in the minds of people would be “Why would such a case take that long to decide?” The answer is quite clear. Political influence always plays a vital role in this system. When the accused is the President of Delhi Youth Congress, it is pretty much evident that one might use his influence for turning the tables.

2. However, Sushil Sharma never denied the fact that he killed his wife; what he does deny that he chopped his wife to pieces and then burnt her in Tandoor. In an interview he said “That one day is blur in my life. Till today, I do not know what happened. It happened in a fraction of a second and that one second has cost me 20 years.

3. The repeated mentions of strained relationship between the accused and deceased went ahead to be an important parameter for the final judgment. The reason for tensions between the couple was that Sushil was reluctant to disclose their marriage and accept her as his wife publically, and the reason so given was that it would have affected his political career which is a very difficult to register. In any case, marriage can hardly spoil anyone’s political prospects. However, this was a strong motive behind the murder.

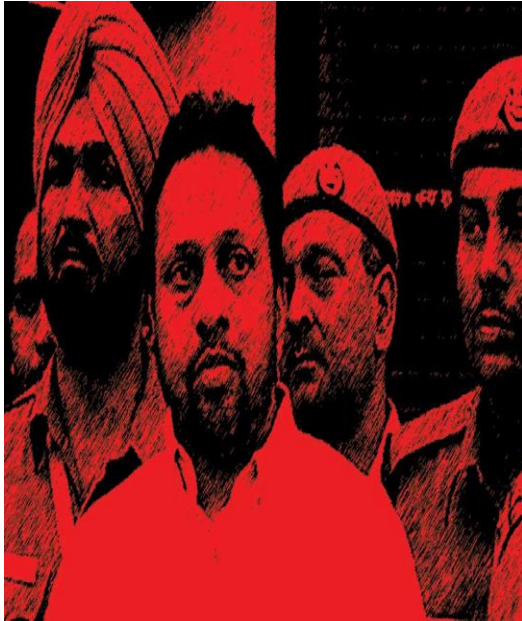
4. While there are media reports and news that Sushil Sharma happened to have chopped his wife, the Supreme Court order reads „...medical evidences medical evidence does not establish that the body was cut. There is also no recovery of any weapon like a chopper which could suggest that Sharma had cut the body. Murder was the outcome of a strained personal relationship Sushil claims that it was the impact of heat that made her limbs fall apart and not the assumptions that he chopped the body.

5. The fact that the punishment was commuted from death sentence to that of life sentence makes it very difficult to accept. Sharma not only murdered his wife in a fit of a rage but also chopped it to pieces and burnt it in the Tandoor. While one might argue that there is no proof of him chopping the corpse since no such weapon was found while investigating, however there was a black polythene with blood stains of the deceased found at the crime scene (circumstantial evidence) which makes it believable and true.

While everybody debates about the validity and legality of Life Imprisonment, nobody seems to have noticed why such a decision is taken in any case.⁹ Talking about Sushil Sharma, the method in which he planned to get rid of the body makes it brutal and shocking. What else can be ‘rarest of the rare’ ¹⁰ than this? What else than chopping a body to pieces to burn in Tandoor can be brutal and rare?

The Supreme Court while ruling out the lower court’s judgment said, “Undoubtedly the offence is brutal but the brutality alone would not justify the death sentence in this case.” So what does? Sharma’s appeal against the death sentence being entertained in the apex court brings the terrible question of just how inhuman and horrific a crime will have to be in the future to qualify as „rarest of rare“. ¹¹ Making headway to the next part of this report, are the judgments and the series of them which lead to commute the death penalty to life sentence.

JUDGEMENT AND SUGGESTIONS



In 2003, Sharma was awarded with death penalty by a district court. He appealed in the Delhi High Court for the same where he found no mercy and the judgment of the Court said in 2007: “People like the appellant who are power drunk and have no value for human life are definitely a menace for the society at large and deserve no mercy.

The act of the appellant is so abhorrent and dastardly that in case death penalty is not awarded to him it would be a mockery of justice and conscience of the society at large would be shocked. This is surely a case which falls within the category of „rarest of rare cases“ in which no other punishment except the death penalty would be justified.”¹² What comes next is the Supreme Court’s judgment in 2014 stating. The Hindu Editorial- Rarest of Rare Opportunities.

“Undoubtedly the offence is brutal but the brutality alone would not justify the death sentence in this case.” Is this judgment not a mockery of justice? Does this not shock the conscience of the society at large? To this, the Supreme Court laid down a few criteria on which only if the crime falls will be eligible for awarding a death penalty.

When the murder is committed in an extremely brutal, grotesque diabolical, revolting or dastardly manner so as to arouse intense and extreme indignation of the community.

When the murder is committed for a motive which evinces total depravity and meanness..."¹³ Therefore, the present case where there was a murder and then methodical and calculated destruction of evidence by chopping and burning in Tandoor, according to the Supreme Court of India is not "extremely brutal, revolting..." enough to provoke resentment among people.

The Supreme Court also concluded that Sharma's motivation to murder was because he "loved" Sahni and was a possessive husband; the murder was the "outcome of strained personal relationship". What happened to that "love" for his wife when he was brutally chopping her body into pieces? Where was the possessive husband when his wife was planning to move to Australia with the help of her colleague? Questions are many, but the judgment answers none.

The death sentence was commuted on other grounds as well. The bench observed that Sharma had no "criminal antecedents" and had chances of reformation. However, it is pretty unusual that Sharma's repeated attempts of domestic cruelty (restrictions, abuse, etc) upon Naina Sahni do not count as criminal antecedents.

The instances of domestic abuse were testified in the court by the domestic help, hence the validity of this argument. ¹⁴ Had the police and the home guard not been alert on the night of 2nd July 1995, Sharma would have gotten away with the legal trial and punishment, owing to the fact that he had tried his best to do away with the corpse (evidence of murder).

The crime had all the political influence one could ever think of. In my personal opinion, it should also be the concern of the law makers to define the doctrine rarest of the rare, because in such high profile mitigating factors are many, however, its validity remains questionab

CONCLUSION

Maybe it's a trend or a practice, death sentence awarded by the trial court, confirmed by the High Court and finally commuted by the Supreme Court to life imprisonment. The judiciary wing has always performed its functions at its best, but what happens when the Court of Law 13 people end up taking crime for granted. The order given to the Tandoor Murder Case resonates till date. The order goes on to conclude: "It appears that the appellant was extremely possessive of the deceased...the appellant (Sushil) suspected her fidelity and the murder was the result of this possessiveness" and was not an offence against society.¹⁵ What is the definition of love which goes to such extent that it takes away the life of that person? Who decides the limit of possessiveness? Is that not a crime in itself, to limit one's freedom? Can talking to the opposite sex enrage a person so bad that they end of shooting them? Questions like such will be unanswered and stab the conscience of the society. Perhaps Sharma's crime is not horrifying enough for it to be included in the rarest of the rare type. Perhaps we have become immune to crime owing to the fact that we are surrounded by so many of its kind. Perhaps we have become so used to killing and murder that life or death, does not really affect anymore. Next time when visiting a restaurant having a Tandoor, it is advised to check the contents carefully. One might never know when a happy dinner time could turn into horrors.