

K.M. NANVATI v. STATE OF MAHARASHTRA

*Dipankar Madaan **
*Prashant Bhargava***

Because this single case changed the mechanism (forever) by which justice would be delivered in India. The case was the last to be heard as a jury trial in India, as the government abolished jury trials as a result of the case.

Premeditated murder is the crime of wrongfully and intentionally causing the death of another human being (also known as murder) after rationally considering the timing or method of doing so, in order to either increase the likelihood of success, or to evade detection or apprehension. Premeditated murder is one of the most serious forms of homicide, and is punished more severely than manslaughter or other types of murder, often with a life sentence without the possibility of parole, or in some countries, the death penalty.

Murder is divided into two degrees: -

First Degree Murder it means as an unlawful killing that is both willful and premeditated, meaning that it was committed after planning or "lying in wait" for the victim. It is committed in a reasonable heat of moment.

The Elements of Murder in the First Degree

Intent

Deliberation & Premeditation

Malice Aforethought ^[1]

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Second Degree Murder it means an intentional killing that is not premeditated or planned, nor committed in a reasonable "heat of moment".

KM Nanavati V. State of Maharashtra

Hon'ble Judges:

Justice Subbarao, K.

Justice Das, S.K.

Justice Dayal Raghubar

Decided On: 24.11.1961

Citation: AIR1962SC605

Citator Info ^[2]

1964 SC 1563 (6)

1976 SC 966 (32)

1983 SC 855 (16)

1987 SC 852 (9)

1990 SC 1459 (24)

It is one of such important cases which must be contextually understood about the premeditated murder and in the reasonable heat of passion committing a crime. For which he was held guilty by the High Court of Bombay.

It was a 1959 Indian court case where commander Kawas Manekshaw Nanavati, a Naval Commander, was tried for the murder of Prem Ahuja, his wife's lover. The incident received unprecedented media coverage and inspired

several books and movies. Commander Nanavati, accused under section 302, was initially declared not guilty by a jury under section 302 but the verdict was dismissed by the Bombay High Court and the case was retried as a bench trial. The case was the last to be heard as a jury trial in India, as the government abolished jury trials.

Facts

The brief facts of case are as Nanavati was the commander in the Indian Navy so he was frequently away on assignments for long periods of time, Sylvia fell in love with Prem Bhagwandas Ahuja, a friend of Nanavati's. Prem's sister Mamie Ahuja, in her testimony in court, stated that Prem had agreed to marry Sylvia, provided she divorced her husband. On 1st november, Nanavati returned home from one of his assignments and finding Sylvia aloof and distant, he questioned her. Sylvia, who now doubted Prem's intent to marry her, confessed about the affair to her husband. Nanavati dropped his family at the Metro Cinema, for a show he had promised to take them to, but excused himself and headed straight to confront Prem Ahuja. Nanavati went to the Naval base, collected his pistol on a false pretext from the stores along with six bus, completed his official duties and proceeded to Prem Ahuja's office. On not finding him there, he went to Ahuja's flat. At Ahuja's residence, Nanavati confronted him and asked him whether he intended to marry Sylvia and accept their children. After Prem replied in the negative, three shots were fired [4] and Prem Ahuja dropped dead. Nanavati headed straight to confess to the Provost Marshal of the Western Naval Command and on his advice, turned himself into the Deputy Commissioner of Police.

Jury Trial

The crux of the case was whether Cdr Nanavati shot Ahuja in the "heat of the moment" or whether it was a premeditated murder. In the former scenario, Nanavati would be charged under the Indian penal code for culpable homicide, with a maximum punishment of 10 years. This is because he could have invoked exceptions 1 and 4 of section 300 of IPC (which defines murder).

Exception 1 states:

"Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident."

Exception 4 states:

"Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

In the latter scenario (i.e. premeditated murder), Cdr Nanavati would be charged with murder, with the sentence being death or life imprisonment. Nanavati pleaded not guilty and his defence team argued it as case of culpable homicide not amounting to murder,^[3] while the prosecution argued it was premeditated murder.

The accused, K.M. Nanavati, was an upright, moral and patriotic person serving the country. There were all the evidences that he had committed murder after being provoked and had no economic benefits in it nor was he a career criminal. And he had willingly surrendered himself afterwards to the police.

The jury in the Greater Bombay Sessions Court had only job and power to pronounce a person as `Guilty` or `Not Guilty` under the charges. They could not indict any accused nor could punish the accused. The jury in the Greater Bombay sessions court pronounced Nanavati as not guilty under section 302 under which Nanavati was charged. Mr. Ratilal Bhaichand Mehta (the sessions judge) considered the acquittal as perverse and referred the case to the high court.

The court accepted the arguments, dismissed the jury's verdict and the case was freshly heard in the high court. Without any proper study comparing existing judicial systems and without any effort to improve the system, it was claimed that jury had been influenced by media and was open to being misled, the Government of India abolished jury trials after this case.

Retrial

Defence Version

In the Bombay High Court, the defence put forth their version of the incident, for which there were no witnesses other than the two men, and no evidence. Hearing Sylvia's confession, an enraged Nanavati wanted to shoot himself, but was calmed down by Sylvia, who told him that he is not to be blamed for this and there was no reason that he should shoot himself. Since Sylvia did not tell him whether Prem intended to marry her, Nanavati sought to find it out for himself. When Nanavati met Prem at the latter's bedroom, Prem had just come out of the bath dressed only in a towel; an angry Nanavati swore at Prem and proceeded to ask him if he intends to marry Sylvia and look after his children. Prem replied, "Will I marry every woman I sleep with?", which further enraged Nanavati. Seeing Prem go for the gun, enclosed in a brown packet, Nanavati too

went for it and in the ensuing scuffle, Prem's hand caused the gun to go off and instantly kill him.

Prosecution Version

On the other hand, the prosecution's version of the story and their counter-points against the defence's version, was based on replies by witnesses and backed by evidence. The towel that Ahuja was wearing was intact on his body and had neither loosened nor fallen off. In the case of a scuffle, it is highly improbable that the towel would have stayed intact. After Sylvia's confession, a calm and collected Nanavati dropped his family to the theatre, drove to his naval base and according to the Navy log, had acquired a gun and rounds, under a false pretext. This indicated that the provocation was neither grave nor sudden and that Nanavati had the murder planned. Ahuja's servant Anjani testified that two shots were fired in quick succession and the entire incident took under a minute to occur, thus ruling out a scuffle. Nanavati walked out of Ahuja's residence, without explaining to his sister Mamie that it was an accident. He then unloaded the gun, went to the Provost Marshall and again went to the police to confess his crime, thus ruling out that he was dazed. The deputy commissioner of police testified that Nanavati confessed that he had shot dead Ahuja and even corrected the misspelling of his name in the police record.

The high court agreed with the prosecution's argument that the murder was premeditated and sentenced Nanavati to life imprisonment for culpable homicide amounting to murder. On 24 November 1961, the Supreme Court of India upheld the conviction.

Public Support

The incident both shocked and riveted the entire country. Such a [crime of passion], as it was termed, was unusual, especially in the upper echelons of the society and that too by a highly decorated officer. People also found the unfolding relationships intriguing. For instance, Nanavati had known Ahuja for nearly 15 years and Sylvia stood by her husband after Ahuja's murder.

The weekly tabloid Blitz ^[4], run by R. K. Karanjia, a Parsi himself, publicized the story, ran exclusive cover stories and openly supported Nanavati, portraying him as a wronged husband and upright officer, betrayed by a close friend. Blitz painted Nanavati's image, as that of a man representing the ideal middle class values as against Ahuja's playboy image, that symbolized the corruption and sleaze of the bourgeois.

Influential Parsis held regular rallies in Mumbai, with the largest being an event held at Cowasji Jehangir Hall, to support the Governor's decree that suspended Nanavati's life sentence and put him under naval custody, until his appeal was heard by the Supreme Court. At that rally, 3,500 people filled the hall and around 5,000 stood outside. Nanavati also received backing from the Indian Navy and the Parsi Panchayat, while the Sindhi community backed Mamie Ahuja.

Among the jurists, Ram Jethmalani led the prosecution, while Karl Khandavala represented Nanavati.

Laws applied: -

Code of Criminal Procedure (Act, 5 of 1898),

Section 307 Power to direct tender of pardon

Section 410 Withdrawal of cases by Judicial Magistrates

Section 417 Power to appoint place of imprisonment.

Section 418 (1) Execution of sentence of imprisonment.

Section 423(2) Warrant for levy of fine issued by a Court in any territory to which this Code does not extend.

Section 297 Authorities before whom affidavits may be sworn. ^[5]

Section 155 (1) Information as to non- cognizable cases and investigation of such cases.

Indian Penal Code, 1860 (Act 45 of 1860)

Section 300: - Murder.

Section 302: - Punishment for murder

Exception I-Indian Evidence Act,1872 (1 of 1872),

Section 105: - Burden of proving that case of accused comes within exceptions.

Conclusion: -

To conclude we can say that whether it was a crime of passion, it had drama, it had rage and it had infidelity all such factors that resonate to the judgement given by the Bombay High Court on KM Nanavati and he was sent to imprisonment for a period of 10 years for committing the murder of Prem Ahuja, the dear friend of Nanavati and the person who was in extra marital relation with the wife of KM Nanavati. When the Commander got to know about all such matter in which her

wife was involved he straightly went to the Naval base, collected his pistol on a false pretext from the stores along with six cartridges, completed his official duties and proceeded to Ahuja's office. On not finding him there went straight to his flat. At Ahuja's residence, Nanavati confronted him and asked him whether he intended to marry Sylvia and accept their children. After Ahuja replied in the negative, three shots were fired and Ahuja dropped dead. Later on Nanavati headed straight to confess to the Provost Marshal of the Western Naval Command and on his advice, turned himself in to the Deputy Commissioner of Police. The jury in the Greater Bombay Sessions court pronounced Nanavati as not guilty.

References: -

1. Malice aforethought was the "premeditation" or "predetermination" (with malice) that was required as an element of some crimes in some jurisdictions and a unique element for first-degree or aggravated murder in a few.
2. Citorator is a guide published primarily for use by judges and lawyers when they are in the process of preparing such papers as judicial decisions, briefs, or memoranda of law. Its purpose is to provide a judicial history of cases and statutes as well as to make a note of new cases.
3. Under section 304 of the Indian penal code, Culpable Homicide not amounting to murder can be pleaded, if the homicide is not premeditated and occurs, due to a grave or sudden provocation, or in a sudden confrontation, without taking any undue advantage or acting in a cruel or unusual manner, irrespective of who provoked first.
4. The fact that was even published in The Blitz. Blitz, was a popular investigative weekly tabloid newspaper published and edited by Russi

Karanjia from Bombay. It was India's first weekly tabloid started in 1941 focused on investigative journalism and political news.

5. Affidavits to be used before any Court under this Code may be sworn or affirmed before: -
 - any Judge or any Judicial or Executive Magistrate, or]
 - any Commissioner of Oaths appointed by a High Court or Court of Session, or
 - any notary appointed under the Notaries Act, 1952 (53 of 1952).
6. Term Cdr stands for commander.

