

**IN THE COURT OF Dr. KAMINI LAU: ADDL. SESSIONS JUDGE-II(NW):  
ROHINI COURTS: DELHI**

Sessions Case No. 691/06

Court on its own motion Vs. Ravinder Kumar  
S/o Sh. Om Prakash  
R/o 2633, Main Road,  
Patel Nagar,  
Delhi

FIR No. 525/06

Under Section: 302/120B/34 Indian Penal Code

Police Station: Uttam Nagar

Date of Judgment: 5.7.2010

Date of hearing: 15.7.2010

Date of Sentence: 20.7.2010

**ORDER ON SENTENCE AS AGAINST RAVINDER KUMAR:**

The above mentioned FIR had been registered on the statement of Ravinder Kumar stated to be an eye witness of the incident in which Ashok son of Hukum Chand lost his life. Briefly the facts of the case are that on 17.6.2006 the family of the deceased Ashok Kumar along with 4-5 other families residing and having their shops in the same area had organized a joint contributory Bhandara at the Shiv Mandir, Vani Vihar, Uttam Nagar. After the conclusion of the Bhandara while Ashok Kumar and his employees were winding up one Santro car bearing No. DL-3C-AB-5306 driven by Shanky Mahajan with Mukesh (accused in the above case) came at a fast speed and hit the pole of the pandal which fell on the scooter of Ashok who asked these boys to drive carefully on which there was a verbal altercation. With the intervention of Hukum Chand the matters were sorted out and both these boys went away but not without threatening Ashok with dire consequences. A few minutes later Mukesh returned to the spot along with his brothers Dinesh and Rajesh (all accused in the case) and while Mukesh and Dinesh caught hold of Ashok, Rajesh inflicted a stab injury on his left chest below the armpit with a knife. Dinesh was apprehended at the spot while Mukesh and Rajesh were apprehended a few hours after the incident. Ashok was taken to Mata Chanan Devi hospital by his father Hukum Chand where he expired. This incident was witnessed by a large number of persons including Ravinder Kumar an electrician by profession who used to work with the deceased Ashok Kumar. It was on the basis of the statement of this Ravinder Kumar an eye witness who was present in the hospital with the father of the deceased when the deceased was taken to Mata Chanan Devi Hospital that the present FIR bearing No.

525/2006, PS Uttam Nagar, Under Section 302/120-B/34 Indian Penal Code was registered.

Vide a detailed judgment dated 5.7.2010 the accused Shanky Mahajan has been acquitted whereas the accused Dinesh, Mukesh and Rajesh have been held guilty and accordingly convicted of the offence under Section 302 read with 34 Indian Penal Code.

While convicting the aforesaid persons, this court arrived at a conclusion that Ravinder Kumar the complainant in the case who has been examined as PW4 is guilty of perjury on account of making a false statement on oath before the court during the trial. The relevant portion of the judgment is as under:

Further, in so far as the role of the witness Ravinder Kumar is concerned, he is the complainant before this court on whose statement the FIR was registered and the investigations were kicked off. It has been established from the address provided by him that he is a resident of the same area. It is also evident that he is known to both the families of the accused and the deceased. He has been examined as PW4 and has denied his presence in the hospital or having made any statement to the investigating officer on the basis of which the FIR has been registered though he admits his signatures not only on the rukka which is Ex.PW4/1, but also the site plan which is Ex.PW4/A-1; personal search memo of Dinesh which is Ex.PW4/B; arrest memo of the accused Dinesh which is Ex.PW4/C; personal search of the accused Rajesh which is Ex.PW4/D; arrest memo of accused Rajesh which is Ex.PW4/E; disclosure statement of accused Rajesh which is Ex.PW4/E-1; recovery-cum-pointing out memo of the knife which is Ex.PW4/F1 and sketch of the knife which is Ex.PW4/F. His presence at the spot has been established from the testimonies of the other witnesses. The investigating officer SI Mahesh Kumar has proved that it was Ravinder Kumar who met them in the hospital on whose statement the FIR was registered. It may be observed that the FIR had been registered at the earliest possible opportunity without any delay and the chances of there being any interpolation in the same does not arise. It is further evident that the accused Dinesh was apprehended at the spot itself.

The said witnesses has turned hostile on the aspect of his witnessing the incident and states that during this time he was present in the house of the deceased Ashok and that when he went to the spot the deceased was bleeding on his chest. Despite the fact that the apprehension and arrest of the accused Dinesh has been established and proved from the testimonies of other eye witnesses, Ravinder Kumar has falsely deposed on this aspect also and has testified that all the accused ran away from the spot. Further, despite the fact that it was the father of the deceased namely Hukum Chand who had taken the deceased to the hospital, as evident from the MLC of Mata Chanan Devi Hospital, Ravinder Kumar has made false statement on that aspect by deposing that it was the labour/ employee of the deceased Ashok who had taken the deceased to the hospital on a scooter. It is also borne out from the record that the deceased was taken to Mata Chanan Devi Hospital where he was first provided treatment despite which he could not be saved. The present witness Ravinder Kumar has also made a false statement on this aspect wherein he has deposed that the deceased was taken to Mahajan Nursing Home. It stands established that the complainant Ravinder Kumar has taken a complete somersault in his deposition before the court.

It was further observed that:

The testimony of witness Ravinder Kumar that he was made to sign on all the documents later on in the police station, does not inspire confidence of the court since it is evident that the FIR was registered on the basis of the statement of Ravinder Kumar and it was only later that all the accused were arrested which arrest memos also bear his signatures which he admits. It was not possible for the police to have apprehended the accused persons without any help of identification which was provided to them by the complainant Ravinder Kumar who now in his testimony before the court has denied not only the incident but also the investigation proceedings which took place, before the court. How convenient it is for this witness to plead ignorance on all aspects except his signatures, which he of course could not deny

knowing-fully well that the same could be established and got proved by an expert. This being so I am of a considered view that this court cannot allow the complainant Ravinder Kumar who is the most important witness being the complainant, to pollute the stream of justice by making a false statement on oath only to help the accused persons and to get away with it. I hold the witness Ravinder Kumar guilty of the offence of perjury and I am satisfied that it is necessary and expedient in the interest of justice that Ravinder Kumar should be tried summarily under Section 344 Code of Criminal Procedure for giving a false statement on oath during the trial of the case.

In view of the aforesaid, a notice was directed to be issued to Ravinder Kumar as to why he should not be punished for perjury on account of giving false evidence on oath believing the same to be false during the trial of the case despite being legally bound to state truth. Ravinder Kumar was also directed to appear in person before the court and to file his detail reply.

Pursuant to the service of the aforesaid notice Ex.CW1/A Ravinder Kumar appeared before this court on 15.7.2010 and filed his reply Ex.CW1/B reaffirming that whatever he has stated during the trial on oath was correct. In order to ensure that Ravinder Kumar is granted a reasonable hearing, his statement was also recorded in the court wherein he stated that on the date of incident he was a resident of Uttam Nagar and was known to both the family of the deceased and also the three accused Rajesh, Mukesh and Dinesh being the residents of the same area. He also stated that he was doing the work of an electrician from his house from where he was running his shop and the deceased Ashok was doing the work of welding and he was also working with the deceased Ashok. He also stated that at the time of incident, the accused Dinesh, Rajesh and Mukesh who were known to him, were doing the business of export. He further stated that deceased Ashok was fully conscious when he was stabbed and also when he was taken to the hospital. Ravinder Kumar also stated that he went to the hospital later. According to him, the police was present in the hospital and they recorded his statement after taking him to the police station. He further stated that the accused Dinesh had already been apprehended at the spot and was made to sit in the office of Ashok while he along with the father of Ashok namely Hukum Chand had gone to the hospital. According to him Ashok was taken to the hospital by his wife and one employee. He states that Ashok was first taken to a Nursing Home and then to DDU Hospital whereas he along with Hukum Chand had gone straight to the hospital.

Today, when the matter was fixed for orders Ravinder Kumar made a request to the court through his counsel Sh. Manoj Sharma for permitting him to file another written reply to the show cause notice. The Ld. counsel was informed that Ravinder Kumar had already given a reply on 15.7.2010 but Sh. Manoj Sharma Advocate requested that the reply prepared by him after legal assistance should also be taken on record. In this background another statement of Ravinder Kumar was recorded today wherein he exhibited his reply to the show cause Ex.CW1/C. In the said reply it is pleaded that the notice under Section 344 Cr.P.C. is illegal and unconstitutional without any proceedings under Section 340 Cr.P.C. It is further alleged that the proceedings under Section 340 Cr.P.C. were not informed and no notice was served to the witness to defend himself. It is further stated that the trial of the case has been completed and part of the judgment has been announced under Section 353 Cr.P.C. and therefore the notice issued by the court under Section 344 Cr.P.C. is not maintainable.

I have considered the grounds now raised by the applicant/ witness PW4 Ravinder Kumar who has already been held guilty of perjury vide judgment dated 5.7.2010 which are without any merits and it may be observed that Ravinder Kumar has already been held guilty of perjury by this court vide detailed findings in judgment dated 5.7.2010. The service of the notice issued to the witness also stands proved as he has himself admitted the same in his statement and has appeared in the court pursuant to the same and therefore, the stand now taken by him that he was not served with any notice is factually incorrect.

Coming now to the merits of the submissions. It is evident that Ravinder Kumar PW4 is a most untrustworthy witness who has been changing his stand time and again to suit his circumstances. His first statement to the police Ex.PW4/A is as under:  
Bayan kiya ki mei pata uprokat par saparivar rehta hu aur mritak Ashok Arora ki dukan par bijali ki fitting ka kam karta hu. Aaj dinak 17/06/06 ko Ashok Arora ke ghar ke bahar shiv mandir hai, usme har saal bhandara karte hai. Aaj bhi har varsh ki tarah bhandara tha aur bhandara samapt ho gaya tha. Ghar ke samne gali me tent laga hua tha samay karib 4 baje sham ke aaspass ek SANTRO kar number DL3CA B5306 barang silver jise Shanky Mahajan chala raha tha va Mukesh saed mein betha tha jinhe mein achhi tehre janta hun kyoki hamari peechi wali gali mein rehte hain. SANTRO chalak ne gari teji se gali se nikali jisse

tent ka pipe Ashok ke khare nay scooter par gir gaya jis par Ashok Arora ne Santro Car rukwai aur poocha ki tum gari dheere nahi chala sakte. Jis par gari se Shanky Mahajan ve Mukesh bahar nikly aur gali galoch karne lage jispar Ashok Arora ke sath en dono ki tu tu mi mi ho gayi. Iske bad Mukesh ve Sankey Mahajan ne apass mein kuch bate ki ve dono kehkar chaley gaye ke hum dono abhi thodi der mein ate hai aur tumeha maja cakhaty hai aur thore samay bad Mukesh Verma , S/O Ram Murti, R/O O-9, Vani Vihar, Uttam Nagar, Delhi aur bhai Dinesh Verma ve Rajesh Verma ke sath mritak Ashok Arora ki dukan Vishal Properties P-60, Vijay Vihar aye aur Mukesh ne chilla kar Dinesh ko kaha ki pakar saley Ashok ko aur Rajesh ko kaha ki mar saley ko chako. Jis par Mukesh ne Dinesh ke sath milkar Ashok Arora ko pakar liya aur Rajesh ne chaku se Ashok Arora ke chathi par var kiya jisse Ashok gir gaya. Rajesh bhay chako ve Mukesh mauko se bhag gaye. Is vkua ko lmauka par maujod Ajay, Manoj ve Yogram ne dekha hai. Ajay, Manoj ve Yograj ne mauka par Dinesh ko pakar liya aur mei ve Ashok ke pitaji Sh. Hukam Chand Ashok ko scooter par Mata Chanan Devi Hospital le gaye jaha par doctor sahab ne thodi der bad Ashok Arora ko mrit ghoshit kar diya. Dinesh, Rajesh, Mukesh ve Shankey Mahajan ne yojna banakar Ashok Arora ka katal kiya hai. Inke khilaf kanoni karyawahi ki jaye. Bayan sun liya thik hai.

During the trial Ravinder Kumar who had made the above statement was called to the court and examined as PW4 on 1.9.2007, 26.2.2008 and 3.7.2008 when he did not support the case of the prosecution by stating on oath that he was not a witness to the incident nor he had made any statement to the police. He also stated that he did not participate in any of the proceedings but identified his signatures on all the documents including rukka Ex.PW4/A; site plan Ex.PW4/A1; arrest memo of the accused Dinesh who had been apprehended at the spot which is Ex.PW4/C; personal search memo of accused Dinesh Ex.PW4/B. He further identified his signatures on the personal search memo of accused Rajesh which is Ex.PW1/D, arrest memo of accused Rajesh Ex.PW4/E, disclosure statement of accused Rajesh Ex.PW4/E-1; recovery-cum-seizure memo of the knife Ex.PW4/F1 and sketch of the knife Ex.PW4/F.

Now after the notice has been served upon Ravinder Kumar and his statement has been recorded in the present proceedings he has admitted that his statement was recorded by the investigating officer (on the basis of which the FIR was registered). He has also now admitted that he had gone to the hospital along with Hukum Chand the father of the deceased. He has further stated that Dinesh was apprehended at the spot itself and made to sit in the office of the deceased when he and Hukum Chand had gone to hospital. It is evident that now this same witness Ravinder Kumar has again taken a somersault to what he had stated on oath in the court during trial. The falsity of the statement of Ravinder Kumar stands established on the following aspects on account of which he has been held guilty of perjury:

1. Despite the fact that the apprehension and arrest of the accused Dinesh has been established and proved from the testimonies of other eye witnesses, Ravinder Kumar has falsely deposed on this aspect and had testified that all the accused ran away from the spot. Now, when he has been given a notice after being held guilty of perjury, he admits that Dinesh was apprehended at the spot.

Further, despite the fact that it was the father of the deceased namely Hukum Chand who had taken the deceased to the hospital, as evident from the MLC of Mata Chanan Devi Hospital, Ravinder Kumar made false statement to that aspect as well by deposing that it was the labour/ employee of the deceased Ashok who had taken the deceased to the hospital on a scooter. Now, after he has been given a notice and his statement recorded in the court he has again changed his stand and states that Ashok was taken to the hospital by his wife and one employee.

3. It is also borne out from the record that the deceased was taken to Mata Chanan Devi Hospital where he was first provided treatment but he unfortunately expired. The present witness Ravinder Kumar has also made a false statement on this aspect wherein he has deposed that the deceased was taken to Mahajan Nursing Home whereas the documents prove that he was taken to Mata Chanan Devi Hospital.

4. Ravinder Kumar was himself present in the hospital claiming to be an eye witness on account of which his statement was recorded by the police on the basis of which the FIR was registered at the earliest opportunity, a fact which he now admits after the notice has been given to him but denied during the trial while making his statement on oath.

Chapter IX of Indian Penal Code has been incorporated to deal with the offences relating to giving false evidence against public justice. The offence in the Chapter are based upon recognition of decline of moral values and erosion of sanctity of oath. The witnesses are eyes and ears of the court and are extremely important subjects of the criminal justice system. Unscrupulous litigants are found daily resorting to utter blatant falsehood in the courts which has to some extent resulted in polluting the judicial system. Any attempt by a witness to divert the course of justice, is required to be dealt with sternly. Ravinder Kumar who is the complainant in the case on the basis of whose statement the entire investigations were kicked off, was legally bound by an oath to state the truth in the court which he did not do and any leniency now shown to this witness will be misplaced and send wrong signals to similar other wrong doers. This being so I am of a considered view that this court cannot allow the complainant Ravinder Kumar who is the most important witness being the complainant, to pollute the stream of justice by making a false statement on oath for reasons writ large and get away with it. I, therefore, hold that interest of justice would be adequately met in case if Ravinder Kumar is sentenced to Rigorous Imprisonment for a period of one month and fine to the tune of Rs.500/-. In default of payment of fine, Ravinder Kumar shall undergo Simple Imprisonment for a further period of two days. Ravinder Kumar is hereby informed that he has a right to prefer an appeal against this judgment. He has also been apprised that in case he cannot afford to engage an advocate, he can approach the Legal Aid Cell, functioning in Tihar Jail or write to the Secretary, Delhi High Court Legal Services Committee, 34-37, Lawyers Chamber Block, High Court of Delhi, New Delhi. One copy of the judgment and order of sentence be given to Ravinder Kumar free of costs and another be attached with his jail warrants.

Announced in the open court (Dr. KAMINI LAU)

Dated: 20.7.2010 ASJ-II(NW): Rohini