

BBA LL.B. SEM IX

MOOT PROBLEM-II

Berle is a small Village in Pune district, just after Crossing Katraj Ghat (round about 10-15 kilometers away from Katraj towards Satara). Mr. Ramppa Kardar is an agriculturalist in that village. Ramppa has a wife Rukmini and two sons Ajay Kardar, and Vijay Kardar. Ramappa had built a house in his fields.

Mr. Ramappa is said to be a short tempered man and is often seen with quarrelling with his wife and sons frequently, and sometimes on petty issues. In village also he does not have many friends, except Kantaram who happens to be his neighbor and is on good terms with Ramappa and his entire family. Kantaram has his fields adjacent to that of Ramappa, and he resides with his wife.

Rukmini is said to be a submissive house wife, and has supported her husband, despite his hot temper. She is also helping her husband in the field work, and if the villagers are to be believed then, she is far more capable than her husband Ramappa. Villagers also say that Ramappa is jealous as she more competent and capable than Ramappa. Whatever the reason is, Ramappa is seen fighting with his wife, and at times even getting physical.

Ajay is the elder brother and is great in academics. Ajay went to Pune and became a doctor and settled in Pune against the wish of Ramappa Somewhere in the year 2012. Ramappa tried to persuade Ajay that Ajay shall settle in the native village and look after agriculture and help Ramappa but failed.

Vijay is not so great in academics. He has done some diploma in computers. Initially in 2012 Ramappa was successful in bringing Vijay to help him in somewhere in the year 2012 itself.

Thus Ajay now resided in Pune, while, Ramappa, Rukmini and Vijay started to reside in village Berle. There were often disagreement between Ramappa and Vijay. Vijay wanted to adopt different style farming while Ramappa was keen on doing traditional farming. There were often clashes which were witnessed by the local villagers.

On 3rd March 2013, Ramappa kept a family of an old man named Naamu, his wife Kumi, their young son Jogya who was about 22 years of age, and the granddaughter who was of 3 years. The granddaughter of Naamu, was the daughter of Naamu's daughter, who had expired earlier. As per Ramappa, the old man would not be doing work, but Kumi will do house hold work and Jogya will work in the fields. For that family to reside, Ramappa constructed a small hutment of around 300 square feet, with one room and a small kitchen separated by a wooden partition, along with a separate toilet and bathroom, which was near the house of Ramappa.

Ramappa was happy with the family he had kept, but there was difference of opinion between Vijay and Jogya, who answered arrogantly to Vijay. Ramappa also criticized his wife and repeatedly praised Kumi. Kumi was also not on good terms with Rukmini.

On 4th October 2013, there was a big clash between Jogya and Vijay over some issue, thereafter Vijay urged that the family of Jogya be removed. Rukmini was also of the same opinion, but Ramappa refused. There was a big fight over this issue for entire afternoon with Ramappa on one side and Rukmini and Vijay on the other. Despite of severe arguments, Ramappa was adamant and firm on his stand. With Vijay and Ramappa, both were adamant on their respective stands, and the fierce arguments that commenced in the morning which lasted till the afternoon. Kantaram and his wife with their relentless efforts calmed all three down, while the family of Naamu was watching the feud. In the same night, again the feud began again and in fit of rage Vijay consumed poison. He was saved by taking to hospital.

On 7th October 2013 the Kardar family had a family meeting in Pune at residence of Ajay. It was decided that Ramappa and Rukmini shall reside with Ajay initially and let Vijay manage the fields as he likes. As it was right time to allow Vijay to do agriculture, as he has to carry the business, and that Ramappa is ageing. Rukmini did not have any problem, but Ramappa was unwilling, however he agreed as all the family members pressured him. Ramappa however kept a condition that he will keep visiting the fields. This was agreed on condition that he will not meddle in Vijay's decisions.

Vijay then started to carry on the agriculture taking his own decisions and gained considerable gains. He quickly established himself and people did comment that he was more rational than his father. Though father did not come to the village, he started to visit the village under one pretext or the other, trying to convince Vijay to take Naamu's family who was working in the same village. Vijay was adamant.

On 15th February 2014, Vijay employed a Nanya a young person who was just 2 years elder than him. Nanya was married against wishes of his parents and also had a sister of marriageable age named Sumi. Nanya desperately needed employment. This move of Vijay of keeping Nanya, and not Naamu's family was also criticized by his father and again, and the differences between the father and the son again started. Ramappa also started having arguments with Ajay contending that Ajay was favoring Vijay.

Nanya was given the same house which was given to Naamu's family used to reside. Nanya and Vijay started to share a good bond, and Nanya and his wife worked hard in the fields, while sister of Nanya Sumi cooked food for their family and for Vijay. Vijay also gave a mobile to Nanya so that he could be in touch with Nanya, whenever Vijay was out for some work or at brother's place in Pune.

Somewhere in October 2014 Nanya made a request to Vijay that the house is congested so Vijay could allow his sister Sumi to sleep in drawing room of Vijay's house, as Vijay was staying alone in that house. Vijay also made it clear that the sister will sleep at the house where they were staying.

Somewhere in November 2014 Nanya fixed the marriage of Sumi, and took leave, and proceeded to his native village. Vijay granted Nanya leave and also gave sum of Rs five thousand as gift. After reaching his native place, Nanya communicated to Vijay that the marriage is fixed on 12th of November 2014. On the date of marriage Vijay tried to call Nanya, but his mobile was switched off. Two days later Nanya returned with his wife and Sumi, contending that the marriage got cancelled because the groom was demanding a dowry of exorbitant amount. For Nanya again the old schedule started where he and his wife would work in the fields and Sumi would cook the food for Vijay.

On one evening when Vijay and Nanya and his wife were having a leisure time, Nanya jokingly said to Vijay that why don't Vijay marry his sister? Vijay laughed and changed the subject. After some days Nanya's wife did say that the prospective groom of Sumi who cancelled the marriage with Sumi had become aware that Sumi and Vijay were staying in same house. Vijay confronted with Nanya who disagreed and stated that the same was cancelled as a high dowry was demanded.

On 14th February 2014, again Ramappa came to the house and again started the same old discussion regarding termination of Nanya and installation of Naamu's family. The fight on that day was severe than any other day. Nanya and his family tried to persuade but failed. Both Ramappa and Vijay were very adamant , firm and violent. Entire evening the fight was there and violence. Even after the evening when violence failed to subside. At around 7 pm, Kantaram and his wife also came, and with great difficulty, they were able to persuade to both the parties and put the end to the bitter fight between father and son. Ramappa was so angry that he was repeating that "I will kill you". After that Kantaram suggested that Ramappa shall come to his place and that both shall have a drink together, to which Ramappa agreed.

So Ramappa went with Kantaram, for having drink with him, where he was there for a long time. They both had drinks and Ramappa vented out his frustration, while Kantaram was consoling him. As it was late night Kantaram offered Ramappa to stay but he refused.

At around 2.30 am Sumi woke up Kantaram and the police was called as Vijay was dead and his body was lying in the pool of blood. Police appeared on the spot, and Panchanama was made. The entire family of Nanya along with Ramappa was taken to police station for initial enquiry. However, charge sheet was filed on Ramappa and Nanya. The police also seized the axe which had the blood stains Vijay's

blood. It had the finger prints of Nanya, Vijay and Ramappa at around the same time. Police took the statements of the Nanya, his wife, Sumi, Kantaram, his wife.

The statements of Kantaram and his wife was as follows

“In the evening when, the fight commenced, we went to interfere, Nanya and his family was watching, but were not interfering in a way, they could have done, as they were three in number. Then I and my wife, stopped the fight and took Ramappa to my house, where myself and Ramappa had drink, I just gave company, he did drink a bit extra. Later we did hear some noise again, I came out of my house but did not proceed as I saw Nanya going towards their house. I did not hear the scream of Vijay that night.”

As per Nanya’s statements (to which all other members of his family agreed) was “Father and son were fighting fiercely, my family was trying best to stop him, at that time, Kantaram and wife came and took Ramappa to his house. He came back at around 11.30 pm, again there were arguments, then Ramappa took the axe, I snatched the axe from him, as he was drunk, I said to him that I will leave tomorrow. Then I left the house, as I thought that the tension was resolved. I am not aware, as to what happened next. I and my family did not hear the scream of Vijay. At around 2 .30 to 3am Sumi woke us up and informed that Vijay was murdered, then we called police. Ramappa was lying exhausted, and looked injured, though not seriously, but was so exhausted that he could barely move.”

As per Ramappa’s statement “After coming back from Kantappa’s house, I wanted to sleep and so needed a blanket, as Vijay was sleeping I was trying to wake him, may be my voice would have been little on the higher side, as I was drunk. Then Nanya came, and started to have fight with Vijay, stating that he has spoilt the life of sister’s life. He was claiming that the marriage of Sumi was cancelled as the groom claimed that Vijay was having an affair with her. When they started to fight, I tried to intervene. But Nanya struck a serious blow on the head of Vijay, and my son died. It was a cold blooded murder done by entire family of Nanya”

The report of Postmortem of Vijay suggested that Vijay was killed by a grave injury on his head, which pierced his skull. The time of death was estimated as per report was around 12.30 to 2.30 of the same night.

The trial commenced in appropriate Sessions court.

One question that came before the judge was that how was it possible that no one could hear the scream of Vijay? The doctor who conducted the Postmortem said that it was quite possible that Vijay may not have even screamed, as the impact of the axe was very severe.

As there was only Nanya's family present the Court relied on their testimony and convicted Ramappa under section 302 of IPC and sentenced him the imprisonment for life. The court acquitted Nanya. The court while convicting Ramappa, held the following,

Nanya was having a good relation with Vijay, and it was Ramappa who was having a fight with Vijay. It was also heard that Ramappa had said that he wanted to kill Vijay. Ramappa was a man of hot temper and in a fit of rage have committed the offence. Lastly it was Sumi who woke Kantaram and not Ramappa.

Ramappa has appealed in High Court. The matter is now listed for final hearing.