

MOOT PROPOSITION

Pritham is a citizen of India. He is an industrialist in the field of textiles and is counted among the richest in the country. His wife Pushti was also a woman of substance and has stake in Pritham's business. The family consisted of Pritham and Pushti's Daughter Krithi and her Brother Kranthi, who lives in Pune.

Mr. Pritham's family occupied the 8th and 9th floors of the 'Woodside' building. Kranthi used to usually stay in his room located on the 9th floor.

Kranthi is a simple man with ambitions. He was introduced to the family by Pushti as her brother. Kranthi developed a liking towards Pushti's daughter Krithi. Both became friends and Krithi also started liking Kranthi. But Pushti was not happy with the relationship. She constantly used to discourage both Kranthi and Krithi. Krithi suffered emotionally for not understanding her mother's stance. Now, she has been sent to United States on the pretext of continuing her studies. Pritham was unhappy with what is happening around and asked Pushti umpteen times as to what's the harm if both of them are friendly to each other.

Pritham got furious towards the unreasonable attitude of his wife, Pushti for sending away their daughter over petty reasons and felt suspicious to know her intentions. On 2nd August 2020, from reliable sources Pritham came to know the fact that, Kranthi indeed was the biological son of his wife, Pushti and she has been hiding it all through these years after their marriage.

On the same day at around 10.00 p.m. both husband and wife were seen arguing with each other over Kranthi and Krithi. This was heard by the neighbours and witnessed by a maid servant named Ms Sumathi in the house. The maid servant has seen Mr Pritham holding a gun and threatening Pushti that he is going to kill her son. Kranthi was heard Pritham saying to Pushti, "I am going to shoot your son and then you", for what you have done. Pushti was constantly holding the husband and crying and shouting to calm the husband. At 11.30 p.m. the servants heard the gunshot with crackling sound of glass of the window. The watchman of the building had noticed that kranthi's body was lying on the ground in the ground floor of the building. And he was found dead.

On witnessing the dead body of Mr Kranthi, the watchman had informed the building secretary who rushed to the spot and immediately informed to the nearby police station. The Station House Officer (SHO) after arriving to the crime scene, recovered the dead body which was sent to the city government hospital for the post mortem and subsequently recorded the first information report (FIR) based on the statement given by the secretary and gave a copy of the same to him. .

On 3rd August, 2020, the Investigation Officer (IO) appointed in this behalf, collected the details of the deceased and his family from the building secretary. The crime scene was examined and Kranthi's suicide note purportedly written by Kranthi, was found in the 9th floor of the apartment from which Kranthi said to have allegedly committed suicide. It was written in the note that he was very sorry for how he perceived Krithi who was indeed his sister. He apologized his mother,

who strived to give him all the ambience he ever needed, and because of him her life is plundered and he is committing suicide and felt sorry for the idea of killing his own mother. It was also mentioned in the note, the fact of loading the revolver of Mr. Pritham with bullets in order to kill her. After going through the suicide note, the Investigating Officer has inquired Pritham, Pushti and their maid, Ms Sumathi. The maid testified that she spotted Pritham holding the gun and threatening his wife, following the gun sounds.

From the statement of the witness, on suspicion the Investigation Officer took Mr Pritham into custody and confiscated the weapon (gun) for further investigation. As a matter of fact, the same revolver loaded by Kranthi was used by Mr Pritham on the night of August 2nd.

The post mortem report of Mr Kranthi revealed that he was shot dead by the bullet injury. The forensic report further confirmed that the bullet belongs to the Pritham's gun matching with the Prithams's fingerprints. Mr. Pritham was charged for murder of Mr Kranthi under Section 302 of the Indian Penal Code, 1860.

But Pritham and Pushti contended that the bullet was fired accidentally through the window and they had no clue as to how kranthi was found dead on the ground floor with a bullet that hit him.

On further investigation by Investigation Officer the following facts were found.

On the fateful morning of 2nd August, Pritham came to know that Kranthi is the son of Pushti and not her brother. Pritham got enraged with the heinous act of his wife and Kranthi and so threatened his wife Pushti that he would kill her and also her son. After several hours of fighting, Kranthi was found dead with a gun shot.

Based on this a charge sheet was filed against Pritham under section 302 of IPC.

There is also one Mr Vishal who is the resident of an opposite building who came to his balcony and spotted Kranthi falling off from the 9th floor of the building.

Based on this, the couple Pritham and Pushti contended that Pritham has not murdered Kranti. But the postmortem report of the deceased showed that Kranti died due to a gun shot and it was proved that the bullet belongs to the licensed gun of Pritham.

The Sessions Court came to the conclusion that the act amounts to murder and found Mr.Pritham guilty of the same and convicted him and sentenced him to undergo ten years rigorous imprisonment for the offence of murder under Section 302 of the Indian Penal Code, 1860.

Now the case is before the High court in appeal.

FIRST INFORMATION REPORT (U/S. 154 of CrPC)**EXHIBIT - I**

1. District: Kothwan PS: Kothwan ; Year: 2020
2. FIR No: 172/2020
3. Date of occurrence: 02/08/2020
4. Acts: i. Pritham, u/s. 302 of the Indian Penal Code.
5. Occurrence of Offence: Day: Wednesday Time: 11:30 PM.
6. Information recorded at PS: Date- 2nd August, 2020; Time: 11:50 PM
7. General Diary Reference Entry No. 2nd August, 2020
8. Information recorded by: Station House Officer,
9. Type of information: Personal Written/Oral: Oral
10. Place of occurrence: Wood side Building
11. Informant Name: Investigating Officer Jai Singhania Nationality: Indian Occupation: Investigating Officer
12. Details of Known/ Unknown/ Suspected/ Accused with particulars: Suspected persons
 - i. Pritham
13. Date and time of dispatch to the Court: 3rd August 2020, 11.35a.m.
14. FIR Contents – On 02/08/2020, a dead body of a male person is recovered in an unknown state based on phone call. The body is sent for post mortem, the Post mortem report dated 02/08/2021 concluded that death is caused by the bullet of 9mm. As per the report, Pritham has been charged u/s. 302 of the Indian Penal Code, 1860.
15. FIR read to the informant, admitted to be correctly recorded and a copy given to the informant free of cost.

Signature/thumb impression of Complainant/ Informant:

Mr. Jai Singhania Signature of Officer-in-charge,

Police Station: Sd/- Pankaj (Station House Officer)

Note: The Magistrate Court after preliminary inquiry into the case decided to commit the case to Sessions Court and all the copies of FIR shall henceforth be accompanied and it also ordered for submission of the Charge sheet before the Sessions Court.

POST MORTEM REPORT

Post Mortem Report No. 1727.

Date and Hour of Receipt of Inquest Paper and Dead Body: 3rd August, 2021 at 9.15 AM.

Date and Hour of Starting Autopsy: 3rd August, 2021, 10:00 AM.

Date and Hour of Concluding Autopsy: 3rd August 2021, 4:00 PM

Body Brought and Identified by: Inspector Jai Singhania. Kranthi.

SCHEDULE OF OBSERVATION.**A- GENERAL**

1. Name: Kranthi
2. Age: Approximately 24 years. Sex: Male
3. Address: Woodside Building
4. Height: 160cm Weight: Unknown Physique: Normal.
5. Injuries: Presence two fractures, Broken leg, bullet wound on the head

B-EXTERNAL EXAMINATION

The body is that of an adult male measuring 160 cm and weight, not possible to determine. The body is normally developed and consistent with the given age of approx. 24years. Bruises on the hands and a bullet wound on the head.

C-INTERNAL EXAMINATION.

Visible injury to the skull as the bullet went through the head, broken neck

Head and Neck: Visible injury to the skull but the hyoid bone in the neck is fractured.

Cardiovascular System: No injury

Respiratory System: No injury

Digestive System and Liver: No injury

Genitourinary System: No injury

D- EVIDENCE OF INJURY

1. Head Wound no. 1 the bullet wound is located on the head.
2. Several minor fractures all over the body.

E- SPECIMEN COLLECTED FOR TOXICOLOGICAL ANALYSIS: None

F- TIME SINCE DEATH: Taking into consideration the level of decomposition and the surrounding in which the body was placed in, approximately 24 hours have passed since the death of the victim.

G-OPINION.

Even though there are multiple injuries on the body. The cause of death to the best of my knowledge and belief is the gun shot that went straight to the head.

On 3rd August, 2021 at Government Hospital, Pune.

Signature:

Name and Designation:

Dr. Mugdha Shah,

Dr. Aamer Chabbria.



STATEMENT OF WITNESS

1. PRITHAM (ACCUSED)

I am Pritham, age 45 years, textile industrialist who lives in the city of Pune along with his legally wedded wife, Pushti.

I know about the family of Pushti and has the knowledge that Pushti has a brother before their marriage. The parents of Pushti had informed me that they begotten Pushti soon after marriage and it took them about 15 years to have their second child and this is the reason why Kranthi is still a child at the time of marriage. Out their wedlock we are blessed with a girl child named Kriti. While Kriti is at the age of 20 years, Pushti brought Kranthi, her brother to stay along with them. Kranthi started living together in the 9th floor while we stay at 8th floor. Eventually the bond between Krithi and Kranthi has developed into a love relationship. Pushti somehow started to hate the closeness between Krathi and her daughter and threatened her to stay away from Kranthi. Krithi did not heed to this friendly advice of her mother while this being a complete confusion to me. I even asked as to why my wife could not accept their friendly relationship. Pushti, however sent Krithi to abroad for her higher studies. I got furious as to this decision of Pushti and felt suspicious. I investigated and found that Kranthi is the biological son of my wife and I could not accept such a grave fact that my wife cheated on our marriage and she has brought her own son as her brother, how his in-laws also lied at the time of marriage and on the top, I could not resist the fact that both Krithi and Kranthi are in relationship.

I felt betrayed and on 2nd August, 2020 at around 10: 00 pm while we were finishing our dinner and maid were doing their dishes Pushti started to haunt Kriti and her unreasonable behaviour. She started shifting the blame on Krithi, this made me even more furious as my daughter is innocent and it is indeed my wife who cheated me. I could not resist and asked her straight away about Kranthi. She started to deny everything and this made me even furious and at the heat of the moment I picked up my revolver to bring the truth out of her. But I am unaware as to when my gun was loaded. The gun got misfired while my wife tried to push it away from my hand and the fired bullet went across the window of our hall.

I was unaware at to how Kranthi died.

2. Jai Singhania (INVESTIGATION OFFICER (IO))

I am Jai Singhania, age 45 years; I am the Investigating Officer in the present case. I cleared the CGPE examination in the year 2000. I was put in charge to this case on 03/08/2020, after the FIR was registered on 02/08/2020 at the Kondhwa Police Station, Pune. I have dealt with several cases of this nature. The investigation first started with the questioning of Vamsi, the building secretary. The investigation then was taken forward to visiting Kranthi's flat in 9th floor there I examined the scene of offence and found a suicide note by which I came to know the distress of Kranthi and how he loaded and intended to use the gun of Mr Pritham. Then I went to Mr Pritham's flat in 8th floor from where I found broke window of hall. I inquired Pritham and his wife Pushti about the same. They pretended as if they do not know about how the window broke at first. Then, I questioned maid Ms Sumathi who is residing in the same house and she disclosed that Pritham and Pushti were in a fight and heard the gun shot sound following the crackling sound of the window. Distance has been calculated by my team from the place where Mr. & Mrs. Pritham were fighting at a distance of 15m towards window. Later, I recovered a gun after searching the house and sent it to the forensic laboratory. In the meantime, an FIR was registered against Pritham. The Post Mortem report dated 04/08/2020 confirmed the deceased to be Kranthi who died due to the bullet injury. The bullet was sent for Forensics which was recovered from Post Mortem. The Forensic report dated 06/08/2020 confirmed that bullet is of the gun licensed by Mr Pritham. The report further confirmed the gun had fingerprints of Mr Pritham engraved on it.

3. MURTHY (WATCHMAN)

I am Murthy. I am the security guard at Woodside buildings, N.I.B.M Pune-411048. My shift hours are from 9pm to 9am, Monday to Saturday. I get a monthly salary of eight thousand rupees. My duty is to make sure that only known people enter the society. If an unknown person enters, I am supposed to intercom the residence and confirm the identity of the individual who has come to visit. I do not have a very hectic schedule. I have to monitor the entry and exit of people and take inspection rounds for every hour. That night I did listen a thumping sound while I was on my way to check, the resident of the opposite building, Mr Vishal bumped into me and told with an anguish that someone fell down from the 9th floor and asked me to check over. I went to the spot and recognised the face of the victim to be of Mr Kranthi. I immediately informed Mr Vamsi the building secretary about the same who rushed to the spot. He informed the nearby Police Station of Kondhwa. The Police came to the spot, recovered the body.

4. VIKRAM (BUILDING SECRETARY)

I am the secretary of the Woodside building for the past one year. I know very well about the deceased and his family. They were friendly with the other flat members and never caused any disturbance to anyone. I was informed about the death of one of residents, Mr Kranthi at around 11:40 pm over the phone call made by the watchman. I immediately rushed to the spot and informed the Kandhwa Police station about the same. The police soon arrived and recovered the dead body of Mr Kranthi. I got registered an FIR by the Police on the same day and helped the police in every possible way for the investigation.

5 . Pankaj (STATION HOUSE OFFICER)

I am Pankaj, the Station House Officer of the Kandhwa Police Station. I have received a call at around 11:50 pm from Mr Vamsi the building secretary who informed me about the death of Mr Kranthi. I immediately rushed to the scene along with my team. There I witnessed a dead body to be of Kranthi lying on the blood pool. I called the ambulance to take the corpse to the government hospital for autopsy. I registered an FIR as informed by the building secretary and Vishal, the resident of the opposite building and left a constable for inspection overnight.

6. MS. SUMATHI (MAID)

I am Sumathi, aged about 25 years and had been working in the house of Pritham for about 3 years. Pritham had always been a peaceful man and a caring husband. He loved Pushti so much and Pushti was also a virtuous wife. The couple loved their daughter, Krithi so much. They barely had any fight. But, on the fateful night of 02/08/2020, I could not understand why sir (Pritham) returned home furious and he was being so silent and looked so disturbed. I silently served the dinner. There was no single conversation shared between the couple. They finished the dinner. I was doing the dishes during which ma'am (Pushti) started explaining sir about why did she send their daughter to abroad and started blaming the behaviour of Krithi didi (sister). Suddenly, sir got agitated and thrown the dishes away and picked a fight with ma'am. I spotted sir holding a gun. I was scared and silently went back to the kitchen to continue dishes. I suddenly heard a gun sound followed by crackling sound of the glass

7. VISHAL (RESIDENT OF OPPOSITE BUILDING)

I am Vishal, who is the resident of the 9th floor of the Dreamland building which is located opposite to Woodside building. I came to my balcony at around 11:20 pm to take up an office call as I was on my night shift office work and spotted someone falling from the 9th floor of the building. I rushed towards the building and asked the watchman to let me in to guide over the person who fell down. I was asked by the Police to provide the information to record an FIR along with the building secretary of the Woodside building

8. PUSHTI

I am Pushti aged about 40 years. I got married to Pritham and begotten Krithi with him. I am the mother of the deceased Kranthi I gave birth to him before my marriage at the age of 16 years. I kept it as a secret as my parents insisted that I cannot marry if I have son at such a tender age. I silently agreed them and married Pritham at the age of 18 years. My parents somehow convinced my son to be of their son whom they begotten at their late age. I never had an intention to cheat my husband. I have always been a loyal and virtuous wife to him. I loved my daughter so much. I was also worried about Kranthi whom I kept away from me all through these years. My parents passed away in 2019. So I had to bring in Kranthi to my custody and somehow convinced my husband that my brother needs our care. Apart from me and my parents no other person has the knowledge about kranthi being my son. As soon as Kranthi started getting along with Krithi I feared that their relation may turn out to be a love relationship and threatened Krithi to mend her ways. Despite, both krithi and Kranthi disclosed their feelings for each other. I have no other option but to keep them apart. So, I have decided to send Kriti to abroad on the pretext of her higher studies. My husband did not like this and was so unhappy.

On 2nd August, 2020 Pritham came home so distressed and kept silent all through the day. At dinner time while we were discussing about Kriti he suddenly got enraged and started yelling at me for sending our daughter away. I tried to cool him down but out of rage started asking me to disclose truth about Kranthi. I was shocked as to how he got to know about the truth. I managed to bury the truth but Pritham got so irritated that he picked a gun. I tried to resist him during which the bullet got fired mistakenly. Later, we go to know that Kranthi fell down from the 9th floor and was dead by the bullet injury. We honestly do not know how Kranthi was dead

EXHIBIT- III**CHARGESHEET****(u/s. 173 of CrPC)**

District: Pune

Police Station: Kondhwa

FIR No. 172/2009 Date: 03/08/2020

Chargesheet No: 12/2020

Nature of information: FIR registered by Head Constable Shivam Advani.

Whether any offence appears to have been committed and, if so, by whom:

Yes. Murder.

Charge Against:

i. Pritham, u/s. 300 and 302 of the Indian Penal Code.

Findings of the Investigation:

- The investigation first started with the questioning of Vamsi, the building secretary. The investigation then was taken forward to visiting Kranthi's flat in 9th floor there we examined the scene of offence and found a suicide note by which we came to know the distress of Kranthi and how he loaded and intended to use the gun of Mr Pritham.

- Then we went to Mr Pritham's flat in 8th floor from where we found broke window of hall. I inquired Pritham and his wife Pushti about the same. They pretended as if they do not know about how the window broke at first.
- Then, we questioned maid Ms Sumathi who is residing in the same house and she disclosed that Pritham and Pushti were in a fight and hear the gun shot sound following the crackling sound of the window.
- Later, we recovered a gun after searching the house and sent it to forensic laboratory. In the meantime, the fact that a gun was recovered were made against Pritham in the original FIR recorded.
- The post mortem report dated 04/08/2020 revealed the body to be of Kranthi who had died due to the bullet injury. The bullet was sent for Forensics. The Forensic report dated 06/08/2020 confirmed that bullet is of the gun licensed by Mr Pritham. The report further confirmed the gun has fingerprints of Mr Pritham engraved on it.

In light of the aforementioned facts and circumstances, the offences as charged herein have been made out against the accused.

Particulars of the Accused

1. Mr. Pritham In custody

Sd/- Jai Singhania

(Senior Police Inspector)

Investigating Officer

EXHIBIT- IV

