



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## Case Comment: K M Nanavati v State of Maharashtra: Three Bullets that Changed the Face of Indian Judiciary

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*Received* 27 July 2023; *Accepted* 14 August 2023; *Published* 18 August 2023

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### INTRODUCTION

The famous case<sup>1</sup> of K.M. Nanavati grabbed everyone's attention. This case shook the nation in 1959 since a high-rank naval officer had shot his wife's paramour. The case garnered extraordinary media coverage and is also considered one of the landmark judgments in the Indian judiciary. This case honed fine points of criminal jurisprudence and is a landmark for numerous reasons. It highlights important legal issues such as the burden of proof, and the powers of the High Court in assessing the appeal on recommendation of a Sessions Judge.

The judgment of the case was passed on 24<sup>th</sup> November 1961 when old criminal laws were in force in India. This case trial is considered to be the last jury trial although several jury trials were conducted in the 1960s. The case also highlights the concept of 'Grave and Sudden Provocation' and the usage of its test.<sup>2</sup> It also focuses on the pardoning powers of the Governor.

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<sup>1</sup> *KM Nanavati v State of Maharashtra* AIR 1962 SC 605

<sup>2</sup> Indian Penal Code 1860, s 300

It also raises the question of a Special Leave Petition (SLP)<sup>3</sup> being entertained without fulfilling the order of Article 142<sup>4</sup>.

## **FACTS OF THE CASE**

In this case, the appellant/ accused was Kawas Manekshaw Nanavati (K.M. Nanavati) who was a Commander in the Indian Navy. He was second-in-command to an Indian Naval Ship named 'Mysore'. He was married to Slyvia and they had three children together. He and his family moved around a lot due to the nature of Nanavati's work before settling in Bombay.

In Bombay, they met the deceased Prem Bhagwandas Ahuja through mutual friends. Due to his official duties, Nanavati had to stay out of Bombay for extended periods and that's when his wife, Slyvia, fell in love with Prem Ahuja and began an illicit relationship with him. Nanavati had returned to back home and even after being affectionate towards his wife on various occasions, she either ignored him or did not reciprocate it. Initially, when asked by her husband, she did not confess, but on 27 July 1959, she confessed her extra-marital relationship with Prem Ahuja to Nanavati.

The same evening, he dropped Slyvia and their three children at the movie theatre and promised to pick them up. He then went to Prem Ahuja's office to confront him. Before going to his office, Nanavati under false pretext from his ship's store took a semi-automatic revolver and six cartridges with him. On reaching the office, he could not find Prem there and therefore he drove to his house. He confirmed Prem's presence from his servant. He then went straight to Ahuja's bedroom carrying the brown packet of a gun. He asked about his intentions regarding Slyvia and the children. On not receiving a desired and honored answer and a heated exchange of words, he fired three bullets and shot Prem Ahuja dead. Nanavati after the shooting went to Provost Marshal of the Western Naval Command and confessed. He later turned himself into

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<sup>3</sup> Constitution of India 1950, art 136

<sup>4</sup> Constitution of India 1950, art 142

the Deputy Commissioner of Police. He was charged with the murder of deceased Prem Ahuja under Section 302<sup>5</sup> and Section 304<sup>6</sup>, Part 1 of the Indian Penal Code.

After the Jury trial, Commander was declared not guilty with an 8:1 jury verdict in favour of his acquittal. The Sessions Judge not satisfied with the verdict of the Jury recommended the matter to the High Court of Bombay under Section 307 of the Criminal Procedure Code. The High Court reversed the Jury's verdict and held Nanavati guilty under Section 302 of IPC. The matter was then referred to the Supreme Court of India. The appellate court decided the appeal and held that there was misdirection in the case in the Sessions Court.

### ISSUES RAISED

1. Whether Nanavati shot Prem Ahuja in the 'heat of the moment' due to grave and sudden provocation or was it a premeditated murder.
2. Whether the High Court has the authority to reverse a jury's judgment under Section 307(3) of the Criminal Procedure Code<sup>7</sup> based on misdirection.
3. Whether the High Court lacks jurisdiction under Section 307 to investigate the facts to evaluate the competency of Sessions Judge's recommendation.
4. The governor's pardoning power and Special Leave Petition (SLP) be moved together.

### ARGUMENTS OF BOTH PARTIES

**Appellant's Arguments:** The appellant's counsel relied on the concept of Grave and Sudden Provocation. They believed that Nanavati shot Ahuja in the heat of the moment. They put forth the contention that after Slyvia's confession, Nanavati wanted to kill himself but she managed to restrict him and calm him down. Upon being questioned about Ahuja's intention to marry and take care of their children, Slyvia could not provide a suitable answer. He went to the base of the ship to take the revolver and informed the authorities that he was travelling to Ahmednagar alone at night that's why he wanted a gun. The main motive behind taking the revolver was shooting himself. He then went straight to Ahuja's office and then to his residence.

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<sup>5</sup> Indian Penal Code 1860, s 302

<sup>6</sup> Indian Penal Code 1860, s 304

<sup>7</sup> Code of Criminal Procedure 1973, s 307(3)

He wanted to find out the answer to his question by himself so he went to his bedroom and put the brown packet that contained the revolver on the cabinet nearby. Nanavati cursed him and asked about his intentions to marry Sylvia to which he gave a disgraceful reply, "Am I to marry every woman I sleep with?" This enraged Nanavati and he threatened to thrash Ahuja. Meanwhile, Ahuja got hold of the revolver. Nanavati commanded him to give him back the revolver and both ensued in a scuffle. The gun went off and accidentally shot two bullets and Ahuja was killed.

After this incident, Nanavati drove himself to the Police Station to surrender. Hence this act was in the 'Heat of the Moment' due to grave and sudden provocation and was Culpable Homicide and not murder.

**Respondent's Arguments:** The counsel of the victim had many disagreements on many facts mentioned by the appellant's counsel. The first argument put forward by the respondent's counsel was that Ahuja had just come out of the shower and was wearing a towel. When his body was discovered, the towel was still intact around his waist and had not loosened or fallen on the floor. Had there been a brawl between both the men, it is very unlikely in such an event that the towel would have stayed intact.

The second argument raised was that calm and composed Nanavati drove to the movie theatre and dropped his wife and children there. From the theatre, he goes to the ship base and takes a gun under a false pretext. This event signifies that there was a sufficient period for him to calm himself down. He had a premeditated plan for the murder of Prem Ahuja and the offence was not committed due to Grave and Sudden Provocation. Ahuja's servant, Anjani was present in the house when the act happened and was a natural witness to the incident. He testified in the Court saying that four shots were fired in quick succession and all this happened in less than a minute. His testimony ruled out the contention of a scuffle between the men. Nanavati left Ahuja's house without explaining the incident to Ahuja's Sister Mamie, who was present in another room in the house.

The Deputy Commissioner of Police testified that Nanavati had confessed that he shot Prem Ahuja and also, he corrected a misspelling of his name in the police record which showcased his ability to think clearly and normally. Hence according to the respondent's counsel, this was a case of premeditated murder.

## JUDGEMENTS

### **High Court's Verdict:**

The High Court of Bombay reversed the Jury trial's verdict and held Nanavati guilty under Section 302<sup>8</sup> of the Indian Penal Code based on the following contentions:

- Slyvia's confession or any event in Ahuja's bedroom or both incidences did not amount to Grave or Sudden Provocation.
- The Burden of Proof for the exception under Section 300 was on the accused. Nanavati had to prove that the event occurred in the heat of the moment and that it was not a pre-planned murder.
- The Jury was ignorant to the fact that Nanavati had to prove his defence beyond reasonable doubt i.e. no reasonable doubt should arise in a reasonable person's mind.

### **Supreme Court's Verdict:**

The Supreme Court of India upheld the judgement given by the High Court and also considered other various principles.

**Issue 1:** The following are the points observed by the Court in this case:

- There is no doubt that the accused had lost his self-control due to any of the events. His subsequent behavior shows that he was capable of thinking normally and was thinking about the future of his wife and children.

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<sup>8</sup> Indian Penal Code 1860, s 302

- The time between leaving his house and the time of the murder was three hours. This amount of time was enough for him to calm down his passion and regain his self-control.
- The mere fact that the accused had abused the deceased before shooting and the deceased gave an equally violent reply does not amount to grave and sudden provocation for murder.

**Issue 2:** The Supreme Court addressed the issue of the authority of the High Court to reverse a jury's judgement under Section 307(3) of the Criminal Procedure Code based on misdirection. According to the provision of this section, the High Court must review all the shreds of evidence, duly consider the judge's and jury's opinion and then convict or acquit the accused.

**Issue 3:** If a Sessions Judge disagrees with the decision of the Jury, then the case can be recommended to the High Court under Section 307(1) of the Criminal Procedure Code providing that the following two conditions are fulfilled. Only if these conditions are fulfilled the referral will be considered competent otherwise it will be dismissed by the High Court.

- The judge must disagree with the Jury's verdict.
- The judge must believe that the Jury's decision was the one that no reasonable man could have reached.

**Issue 4:** The appellant had filed an SLP and also made an application for pardon to the Governor. The Governor had also reduced his sentence. The Supreme Court held that the SLP and Governor's pardoning power cannot be moved simultaneously. If SLP is filed under Article 136 of the Indian Constitution then Governor's pardoning powers are revoked. The Supreme Court addressed the above issues and held Nanavati guilty of the premeditated murder of deceased Prem Ahuja under Section 302 of the Indian Penal Code.

## CRITICAL ANALYSIS OF THE CASE

The Jury had acquitted Nanavati and held him not guilty of murder under Section 302 of IPC with a ratio of 8:1. The Sessions Judge not satisfied with Jury's decision referred the matter to High Court due to misdirection in verdict.

This case had garnered significant media attention and had gained nationwide attention since a high-ranked naval officer had murdered his wife's paramour. The weekly tabloid Blitz, owned by R.K. Karanjia, a Parsi himself, sensationalized the case which led to it being famous nationwide and published cover stories under exclusive updates. He openly supported Nanavati and portrayed him as a husband who had been wronged by his wife and his friend. He was sold as a victim of dishonesty and who even in the worst moments of his life defended the honour of his wife and family. This led to the Jury being swayed by the media coverage and public opinion leading to misdirection in the verdict. Hence after this trial, Jury trials were considered to be abolished in India. Although Criminal Jury trials were phased out after this case, Bench trials were officially codified in the Code of Criminal Procedure in 1973.

When the matter was referred to the High Court, the Jury's decision was overturned and it was labelled as illogical and a decision that no reasonable man would have concluded. The High Court said that the Jury was unduly influenced by the media and the support of the public in favour of Nanavati leading to this misdirection. The fact that the crime of adultery had given birth to a crime of murder had misled the Jury and the trials were biased. The defense of Grave and Sudden Provocation cannot be held since the accused had regained his control and senses as established by the facts.

The Supreme Court also upheld the judgement of the High Court and laid down the following principles for applying the defence of Grave and Sudden Provocation:

- Whether a reasonable man of the same class of society as the accused if placed in the same situation be provoked and lose his self-control.
- The mental status created by the previous act of the victim may be taken into consideration while deciding the guilt of the accused.
- In India, words and gestures may also, under particular circumstances cause grave and sudden provocation to an accused as to bring the case under Exception 1 of Section 300 of IPC.

- The fatal blow should be traced to the influence of passion arising from that provocation and not after the passion has cooled down by a lapse of time or giving scope for premeditation and calculation.

The case highlighted and established the concept of 'Supremacy of Law' and proved that no one is above the law and that the law of the land will always prevail irrespective of one's status and rank. Also, it shows the importance of strict interpretation of penal laws.

## CONCLUSION

The case of KM Nanavati v State of Maharashtra<sup>9</sup> is still one of the most talked about cases in criminal jurisprudence. From being declared not guilty by jury to being guilty of murder by the Supreme Court, this case was highly controversial and got widespread attention from the media and the public. This judgment is still relevant as media trials today have become a lot more common. This case is an example that the higher courts have to uphold fairness and ensure that justice prevails.

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<sup>9</sup> Bachi Karkaria, 'A "crime of Passion" that India never forgot' (*BBC News*, 15 May 2017) <<https://www.bbc.com/news/world-asia-india-39790535>> accessed 25 July 2023