

THE CONTROVERSIAL JURY SYSTEM CAME TO AN END

[THE NANAVATI CASE]

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INTRODUCTION

Almost immediately after the Indian Constitution took effect, the abolition of the jury system began to be discussed in the corridors of power. However, jury trials continue to exist in many states¹. But the jury trials became controversial after the sensational case of naval officer K.M Nanavati², who killed his wife's paramour, Prem Bhagwandas Ahuja, a businessman in Bombay. The appeal to the Supreme Court Of India was presented in 1960; this appeal uncovered a commonplace problem of alleged murder by an enraged husband. It aroused considerable interest in the public mind because of the publicity it received and the important constitutional point it had given rise to at the time of its admission³. The case of Nanavati is the most famous case among jury trials in India. This case gained a lot of publicity and media coverage, and it also contributed to Indian cinema. The criminal side of the case came across general exceptions of the Indian Penal Code, the burden of proof, and sudden and grave provocation. A question also arose regarding the competency of sessions Judge to refer to the High Court. Altogether, the case of K.M Nanavati became a matter of controversy in the court and between people.

UNDERSTANDING THE JURY SYSTEM

The jury system consists of a group of people specialized in the field of law who are entrusted with the task of producing a decision on the submission of relevant facts and evidence in a case trial⁴. A jury trial is a trial done by members of the jury after listening to all the facts and arguments of the case. The guilt of an accused is determined after analyzing all the evidence exhibited before them. Before selecting someone as a jury, a preliminary examination is conducted, which is called voir dire, which means "to speak the truth". In court, it refers to a process of determining whether a juror can serve fairly and impartially in a given case by asking

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¹ Alex Andrew George, *Important Judgements That Transformed India* (McGraw-Hill Education 2020) 12

² K.M Nanavati v The State of Maharastra [1961] SCC Online SC 69

³ Ibid

⁴ 'The Jury System in India and its decline' (*Ipleaders*, 7 November 2021) <<https://blog.ipleaders.in/the-jury-system-in-india-and-its-decline/>> accessed 17 June 2024

the juror a few questions⁵. The first jury trial was held in 1630 in American Colonies, but in India, it was introduced in 1665 in the trial of a British lady on charges of murdering her Indian slave.

The jury only decides the guilt of the accused and not the punishment. Punishment is always decided by the Judge. Judges are bound by the law, whereas juries decide on the basis of morality. Participation of the jury ensures a verdict through a democratic vote, participation from the society and new perspective of every juror. Jury could also affect the case by media & public interpretation. They decide on a serious criminal issue with sentiments rather than using knowledge of the law. Combining all of these, the jury trial became a topic of controversy after the case of K.M Nanavati vs. the State Of Maharashtra in 1961.⁶

BACKGROUND OF THE CASE

The appellant was K.M. Nanavati; the respondent was the State of Maharashtra. In the Supreme Court of India having criminal appeal no 195 of 1960⁷. The appellant, Kawas Manekshaw Nanavati, was second in command of the Indian Naval Ship Mysore. His wife was Sylvia. They had three children by marriage. After living in different places, they shifted to Bombay, where a common friend introduced the businessman Ahuja to them. The friendship between Ahuja & Sylvia gradually increased and transformed into illicit intimacy as Nanavati had to leave his family in Bombay for days and months to attend to his naval job. When Nanavati came back to Bombay, his wife Sylvia behaved strangely; when he questioned her about the same, she admitted that she was unfaithful to him. He guessed that her paramour was Ahuja. When this relationship came to Nanavati's knowledge, he rushed to the stores of the ship and grabbed a semi-automatic revolver and six cartridges on a false pretext. In search of Ahuja, he went to Ahuja's office, followed by his flat. He walked straight to Ahuja's bedroom and asked him whether he would marry Sylvia and look after the children. But Ahuja answered, "Am I to marry every woman I sleep with?". Nanavati was enraged by this, and he shot Ahuja dead; after this, the accused surrendered himself to the police.

Although the defence version of the case looked a little bit different, while Sylvia admitted that she was unfaithful, she did not mention the name of Ahuja; Nanavati guessed that. Then he

⁵ Home>FAQs 'What does the term "voir dire" mean?' (GeorgeTown County, SC) <[⁶ K.M Nanavati \(n 2\)](https://www.gtcounty.org/Faq.aspx?QID=183#:~:text=The%20phrase%20%22Vair%20Dire%22%20literally,asking%20the%20juror%20various%20questions.> accessed 17 June 2024</p></div><div data-bbox=)

⁷ Ibid

dropped his wife and children to a cinema and promised to pick them up at 6 pm. In this version, Nanavati claimed that the real purpose of drawing an official revolver was to shoot himself. When he reached Ahuja's flat, he was thinking about the future of his wife and children by proposing to Ahuja to marry his wife. Even in this version, the real reason for the shots from the revolver was by accident, and a struggle ensued between the two.

TRIALS DONE BEFORE

K.M. Nanavati was charged under section 302⁸ and section 304⁹. Before the Sessions Judge, Nanavati's case was tried, and the jury found that Nanavati was not guilty by a majority of 8:1. But the learned Sessions Judge was not satisfied by the verdict and referred the case to the Bombay High Court. A division bench of Bombay High Court, Justice Shelat and Justice Naik found Nanavati guilty under section 302¹⁰ and sentenced him to lifetime imprisonment. Then, K.M. Nanavati appealed to the Supreme Court of India by a special leave petition.

LEGAL ISSUES AROSE

- Whether a reference was competent made by a Sessions Judge only on a perusal of the order of reference made to it.
- The High Court had no power to set aside the verdict of the jury on the grounds of misdirections in the charge made by the Sessions Judge¹¹.
- Whether there were misdirections to the jury.
- Whether it was predetermined murder or grave and sudden provocation, which would only be culpable homicide not amounting to murder.¹²

IMPORTANT POINTS CONSIDERED/ARGUED IN THE CASE

- Misdirections- The jury deals with the facts, and the Judge deals with the law. Appellate court can not change the verdict of the jury unless the verdict is followed by a misdirection by the Judge. In a fair and good trial, the appellate court can not alter the verdict of the jury. But in this case, the jury came to a verdict of "not guilty", the Judge

⁸ Indian Penal Code 1860, s 302

⁹ Indian Penal Code 1860, s 304

¹⁰ Indian Penal Code 1860

¹¹ Code of Criminal Procedure, s 307(3)

¹² Indian Penal Code 1860, s 304

disagreed with the jury, and the case was sent to the High Court on the basis of "misdirections".

- Competency of Reference- If the Sessions Judge is referring the case to the higher court, there should be a reason for referring it. The reason could be that the Judge disagrees with the verdict of the jurors or that the verdict given by the jurors can not be given by a reasonable body of men. If no reason is mentioned while referring to the case, then the High Court may reject the reference.
- Omission- The point out by Justice Shelat of omission & misdirection. Nanavati was a naval officer, and he killed the deceased with his official gun. According to section 80 of the IPC, nothing is an offence that is done by accident or with lawful means¹³. The Sessions Judge failed to convey that the said section is not applicable to the appellant. Also, the second omission was that in the complete trial, section 105¹⁴ was never mentioned, which talks about the burden of proving that the case of the accused comes within the exception.
- Accident- Nanavati, in his version of facts, said that the firing was a matter of accident, but section 80¹⁵ says that a person is exempted from criminal liability if it is a matter of accident. Someone cannot be exempted on the basis of struggle or fight. It should be purely misfortune with no criminal intention.
- Grave and Sudden Provocation- The jury was unaware of whether Sylvia's confession caused grave and sudden provocation to Nanavati or not. It was the question of law to be decided by the Judge. It was an error to tell the jury to decide on this. The confession did not amount to sudden and grave provocation by Ahuja. The Sessions Judge failed to inform the jury about this.
- Evidence- (i) Before the incident (Ahuja's murder), when Nanavati put his arm around his wife, his wife was unresponsive; after this trivial act, Nanavati asked Sylvia if she was unfaithful to him or not. This seemed an unnatural act, as mere unresponsiveness can not be guessed as unfaithfulness. (ii) Sylvia confessed about the relationship at lunch, so it is hard to believe that Nanavati dropped his family at the movie after such

¹³ Indian Penal Code 1860, s 80

¹⁴ Indian Evidence Act 1872, s 105

¹⁵ Indian Penal Code (n 13)

a confession was made to him. (iii) Nanavati said that he went to Ahuja to ask whether he wanted to marry Sylvia and take care of the children or not. It is also improbable that after being deceived by his wife voluntarily, he went to her paramour's flat to learn about his intentions and future plans with Sylvia.

- Intention- In the evidence, Nanavati said that he took the revolver to shoot himself. But he never did that before or after Ahuja was shot. Issuing a revolver with six cartridges with a false reason shows his intention to kill somebody with the revolver.

OBSERVATION OF THE SUPREME COURT

The Supreme Court of India observed that when Sylvia confessed to Nanavati, he might have lost self-control for that moment, but if the version is true, then he said that he asked Ahuja if he wanted to marry her or not, which clearly shows that Nanavati was thinking about the future. Also, he asked for an explanation of Ahuja's conduct. By the given circumstances, it is clear that by that time, Nanavati had gained self-control over him, and he was thinking about the future. There was around 3 hours of time between leaving the house and the murder of Ahuja, which is sufficient enough to gain self-control if he hadn't gained it earlier. Also, an abusive reply from Ahuja cannot be considered a sudden provocation, which amounts to exception 1 of section 300¹⁶. Nanavati's act was calculated and deliberate.

PUNISHMENT

After the trial, the Supreme Court of India found K.M Nanavati guilty and sentenced him to imprisonment for life under section 302 of the Indian Penal Code. The court also found that the sentence passed by Bombay High Court was correct.

After spending three years in jail, Nanavati was pardoned by then-Governor Vijay Lakshmi Pandit.

CONCLUSION

A landmark case known as the last case heard by jury trial, though few cases after this were also tried under jury trial, showcased itself as a mystery that the jurors couldn't solve, and the naval officer bluffed them to prove himself not guilty, but the apex court served justice. The dramatic narrative of the case and societal sentiments contrived the people of India to believe

¹⁶ Indian Penal Code 1860

in a deliberate criminal who just killed his wife's paramour without even thinking about it twice. Doing something wrong to someone doesn't give him the justification to kill others. This case has also broadened the hairline difference between the two sections of the Indian Penal Code, i.e. culpable homicide and murder, by smoothly differentiating between them. The case also highlighted that the exceptions of the laws are limited, and one should not benefit from them after wrongdoing.

The amount of influence by the media also played a vital role in the jury's conclusion on a not-guilty verdict, but the integrity of the judiciary proved that justice is served without being influenced by societal pressure. The Nanavati case significantly helped broaden the legal reforms and the view of justice over public norms and taboos to balance law, morality, and justice.

