

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CRI-2017-092-013249  
[2019] NZHC 148**

**THE QUEEN**

v

**ROHIT DEEPAK SINGH**

Hearing: 14 February 2019

Appearances: Y Yelavich for the Crown  
B L Sellars QC and A K Singh for R D Singh

Judgment: 14 February 2019

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**SENTENCING NOTES OF POWELL J**

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Counsel/Solicitors:  
Fletcher Walker, Manukau  
B L Sellars QC, Auckland

[1] Rohit Singh you come up for sentence today having been found guilty by a jury of the murder of Arishma Chand on 12 November 2017.

[2] The Sentencing Act 2002 sets out the purposes and principles of sentencing. The primary purposes of sentencing in this case are to hold you accountable for the harm you have done,<sup>1</sup> and to denounce your conduct.<sup>2</sup> Your sentencing must also serve to deter you and others from committing similar offences<sup>3</sup> and to protect the community.<sup>4</sup>

[3] The principles of sentencing that are of particular relevance in this case are the need to take into account the seriousness of your offending<sup>5</sup> and to achieve consistency with appropriate sentencing levels.<sup>6</sup>

[4] As you have been found guilty of murder, s 102(1) of the Sentencing Act requires me to sentence you to imprisonment for life unless such a sentence would be manifestly unjust. In this case both counsel agree that imprisonment for life is appropriate and there is no suggestion that such would be manifestly excessive. I too am satisfied that imprisonment for life is appropriate.

[5] Given that position, the primary issue in sentencing you today is to determine what minimum period of imprisonment should be imposed as part of your sentence;<sup>7</sup> A minimum period of imprisonment is the minimum period that you are to be imprisoned for before you can be eligible for parole. As you have heard, both counsel are agreed that s 104 of the Sentencing Act applies. This section requires me to impose a minimum period of imprisonment of 17 years if particular circumstances apply, unless I am satisfied it would be manifestly unjust to impose such a sentence. In your case, both counsel are agreed that three of the circumstances specified in s 104 are present:

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<sup>1</sup> Sentencing Act 2002, s 7(1)(a).

<sup>2</sup> Section 7(1)(e).

<sup>3</sup> Section 7(1)(f).

<sup>4</sup> Section 7(1)(g).

<sup>5</sup> Section 8(a).

<sup>6</sup> Section 8(e).

<sup>7</sup> Section 103.

- (a) the murder involved calculated or lengthy planning;<sup>8</sup>
- (b) the murder involved the unlawful entry into, or unlawful presence in, a dwelling place;<sup>9</sup> and
- (c) the murder was committed with a high degree of brutality, cruelty, depravity, or callousness.<sup>10</sup>

[6] From this starting point Ms Yelavich submits, on behalf of the Crown, that you should be imprisoned for a minimum period of 18-19 years. Ms Sellars, on your behalf, submits that a minimum period of imprisonment of 17 years would not be manifestly unjust. I will now deal with the applicable circumstances from s 104, as well as the other relevant circumstances that apply to the offending and to you personally.

#### **Calculated or lengthy planning**

[7] It is not clear from the evidence exactly when you formed the intention to kill Arishma and started making preparation to murder her.

[8] You had enjoyed a relationship with Arishma while she and her daughter, Elisha, were living with you in 2016 until it broke up after you both returned from Fiji. There is no doubt you took the break up hard. You delighted in being with Arishma and Elisha and, having been under the impression that you could not be a father, were excited when you heard Arishma was pregnant, and devastated when she chose not to keep the baby. From your point of view, you did not appear to understand what had occurred and why the relationship had ended. It seems clear, however, at least in part, that it was your suspicions that Arishma may have been seeing someone else that led you to involving Arishma's father Rakeshwar Singh without any reference to Arishma and this resulted in Arishma breaking off the relationship with you.

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<sup>8</sup> Section 104(1)(b).

<sup>9</sup> Section 104(1)(c).

<sup>10</sup> Section 104(1)(e).

[9] Over the 14 months or so that followed the breakup you could not and did not accept the relationship was permanently over and instead you demonstrated an ongoing obsession with Arishma. You continued to text and send Viber messages to Arishma. Many of these were very manipulative, and aimed at getting Arishma back. You were however unaware she had blocked both your texts and your messages on Viber, and she was in fact unaware of your ongoing communications to her. In the same period, you went ahead and got a tattoo of Arishma on your chest. You also began exhibiting stalking behaviour, including eventually watching her home from cars borrowed from friends. You also continued to try and see or contact her.

[10] As Ms Sellars has submitted, however, the obsessive stalking behaviour is not in itself evidence of calculated or lengthy planning for murder. For much of the period between the break up and Arishma's murder your object was clearly to get her back. In the course of your trial the evidence of a number of witnesses showed that as 2017 went on you were however starting to make threats of harm to Arishma as the prospects for getting back together began to fade.

[11] Although it is not necessary for the purposes of this sentencing to determine exactly when you decided to kill Arishma,<sup>11</sup> it is clear that, at latest by 10 November 2017, your mind was made up. On that day you had called in sick to your work and you were observed on CCTV in your home taking a large knife from the kitchen and subsequently leaving the house with a backpack and wearing the same clothes as you later wore on the night of the murder. You then borrowed a car from a friend and went around to Arishma's house. The evidence was strong that, had the opportunity offered, you would have tried to kill Arishma on the evening of the 10<sup>th</sup> but for the presence of her family.

[12] The following day, on 11 November 2017, you again borrowed a friend's car. You maintained a vigil outside Arishma's house for much of the day, and took photographs as she went out. After handing your friend's car back you returned later in the evening to Arishma's house in your own car. You equipped yourself with a

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<sup>11</sup> *Desai v R* [2012] NZCA 534 at [59]: The Court states that to qualify as planning under s 104(b) it must be present to a heightened degree, *either* because of the period of time over which it has taken place *or* because of the degree of thought which has gone into it. (Emphasis added.)

backpack containing two weapons and nitrile gloves, and you waited for Arishma to return home from her date with her boyfriend, Inderpreet Singh, and, after they arrived home, you waited for him to leave. While you were waiting it is likely you threw a rock onto the deck of the house which led to Arishma getting scared. The sound Arishma heard did not however prevent Inderpreet Singh leaving which gave you the opportunity you were seeking.

[13] Taken together I am satisfied your ongoing observation of Arishma and her home over several days, and the preparations you made including the decision to select two weapons and taking gloves demonstrated calculated planning on your part to enable you to carry out the murder.

### **Unlawful entry of a dwelling place**

[14] This leads to the second relevant s 104 factor: that after Inderpreet Singh left you unlawfully entered Arishma's home that she shared with her parents.

[15] It is not clear how you got in; it is likely you had access to the key to the house prior to breaking up with Arishma and you may have made and retained a copy of that key. Alternatively, it may be that Arishma did not lock the door given she knew her parents were at that point only minutes away.

[16] Regardless, there is no dispute at this hearing that you did not have permission to enter Arishma's home in the early hours of Sunday morning. I note this was not your position at trial when you claimed that you and Arishma had reconciled prior to the murder and that you came to the house at her direction, and that after your arrival you found her after she had been attacked. The jury clearly rejected that explanation as do I. It was quite unbelievable given the totality of the evidence, and in particular the evidence available about the attack on Arishma, the nature of her injuries and the size and layout of the house.

[17] I am therefore satisfied that you unlawfully entered Arishma's home just after she got off the phone to her parents at about nine minutes to 1 a.m. When you entered the house you then surprised Arishma in her bedroom.

## **Brutality and callousness**

[18] It is not disputed that what followed your entry into the home, the murder of Arishma, was both brutal and callous in terms of the third relevant factor of s 104.

[19] As noted you had brought two weapons with you: a large knife and another, unidentified, weapon. Attacking Arishma with the knife you inflicted at least 20 cutting and stabbing wounds that were identified by the forensic pathologist, Dr Dianne Vertes. These were inflicted in a short period and counsel agree it can be described as a frenzied attack. You inflicted wounds to Arishma's:

- (a) face;
- (b) her left groin (which extended to the abdominal cavity);
- (c) to the left side of the body (entering the abdominal cavity and cutting/transecting the left ribs);
- (d) her lower back;
- (e) her shoulders, arms and elbow; and
- (f) her hands.

[20] We know Arishma tried to defend herself from your attack. A number of the wounds to Arishma's arms and hands were obviously defensive in nature as she sought both to protect herself and/or grasp your weapon. Although unsuccessful in stopping your attack, Arishma nonetheless managed to scratch you deeply across the face and secured your DNA under her fingernails.

[21] By the time you stopped your attack with the knife it is clear that Arishma was already dying. The wound to her groin had penetrated her abdominal cavity and cut her left femoral artery. In Dr Vertes's opinion, this injury alone could have caused her death. Bleeding out she was no longer able to stay on her feet and Dr Vertes concluded Arishma eventually dropped to her hands and knees with her head down. This was

not enough for you however. With what must have been some deliberation you paused your attack and swapped weapons. With your second, unidentified weapon, you then proceeded to strike Arishma repeatedly – no less than eight times – side to side across the back of her head. As Dr Vertes observed, Arishma could not survive these blows; the force of this second part of your attack resulted in a 26 cm fracture that extended from ear to ear across the back of Arishma’s head. The repeated blows also inflicted two depressed fractures to Arishma’s skull, fractures to her inner ear, and incised wounds to the left and right-hand side of her skull.

[22] By any description the murder involved a high degree of brutality and callousness. The level of callousness was demonstrated in particular by your assault with the second weapon as Arishma was dying and defenceless before you. This level of callousness is in no way mitigated by the fact that the attack as a whole lasted less than 15 minutes. The level of callousness is as much about the nature of the attack and the blows struck, as its duration.

### **Other aggravating features**

[23] As Ms Sellars also fairly acknowledges the seriousness of your offending was further aggravated by what took place after you finished your attack. First, you left Arishma lying in a pool of blood in her bedroom knowing that her parents, Rakeshwar Singh and Aradhana Devi, would be certain to find her only minutes later. As you have heard from the victim impact statements read out this morning the anguish of that moment for parents finding their daughter in that state can only begin to be imagined.

[24] You yourself immediately took steps to cover up your involvement. You disposed of your backpack, your clothing, your gloves and the murder weapons and you then headed over to the North Shore, to Glenfield, where you dialled 111 to claim you had been assaulted by three girls who had scratched you on the face. Your poise on that call was remarkable as you confirmed to the operator that your night had been good up until that point. Of course your whole story that you had been invited to visit your relatives was an outright fabrication, not only inherently unlikely and internally inconsistent, but disproved by the cell phone polling data and the testimony of your

relatives. This did not stop you making what was clearly a false formal statement to Police later that morning, noteworthy only that the description given of the offenders' car in fact matched Arishma's own Nissan Pulsar hatchback.

[25] You stuck to this story even through to your evidence at trial, although by that time the strength of the DNA evidence placing you at the scene was overwhelming. This led to your claim that you and Arishma had reconciled prior to the murder and that you had come to the house at her direction, and found her after she had been attacked, which as I have stated I have rejected having heard the evidence.

### **Discussion**

[26] Overall there can be no doubt that your calculated, brutal, and callous murder of Arishma in her home on 12 November 2017 was an evil act, the consequences of which can never be undone. As you have heard this morning it has had a devastating and ongoing impact on her immediate family for which you alone are responsible. Arishma's parents, Rakeshwar and Aradhana, and her sister, Risha, have detailed the ongoing pain and loss they have suffered as a result of the murder of their cherished daughter and sister. They have also explained the ongoing difficulties they have of explaining to Elisha, who you had professed to care deeply for, what happened to her mother and why she cannot see her ever again.

[27] Against all of this, as Ms Sellars acknowledged, there are no mitigating or excusing circumstances. You have not demonstrated any remorse or acceptance of guilt at any point,<sup>12</sup> and can receive no discount for a guilty plea. There is also no evidence before me that there should be any adjustment to the appropriate sentence on compassionate or medical grounds. In particular, there is no evidence before me to suggest that you had a difficult upbringing, instead the pre-sentence report and letters from members of your family suggest that you were well supported and had a good upbringing. I also do not accept Ms Sellars's submission on your behalf, that your level of cognitive ability and any communication issues as assessed by Dr Sakdalan, provide any basis for concluding that imprisonment will have a disproportionately severe effect on you. To the extent that those issues are present they have not stopped

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<sup>12</sup> Including most recently in the PAC Report dated 18 January 2019.

you living an ordinary life to this point and it is difficult to see on the evidence available how that could result in more difficult circumstances for you in prison.

[28] I have considered the relevant authorities cited by counsel to me this morning in their submissions.<sup>13</sup> Looking at the totality of your offending, including the matters I have discussed this morning, I conclude that the least restrictive sentence required to meet the purposes and principles of the Sentencing Act is life imprisonment with a minimum period of imprisonment of 19 years.<sup>14</sup>

### **Sentence**

[29] Mr Singh please stand.

[30] For the murder of Arishma Chand you are sentenced to life imprisonment with a minimum period of imprisonment of 19 years. Stand down.

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Powell J

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<sup>13</sup> *R v Smith* [2013] NZHC 2782; *Preston v R* [2016] NZCA 568; *Thurgood v R* [2012] NZCA 23; *R v Gottemeyer* [2014] NZCA 205; *R v Desai* [2012] NZHC 1062 and *R v Desai* [2012] NZCA 534. I take *Preston v R* to be the most applicable to the present case.

<sup>14</sup> Because I have found the appropriate minimum term to be 17 years or more, I am not required to consider the otherwise second step of the inquiry outlined in *R v Williams* that considers whether imposing a minimum term of 17 years' imprisonment would be manifestly unjust. See *R v Williams* [2005] 2 NZLR 506 (CA) at [56].