

Hagroo Ikaru Vs. State

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Court : Mumbai

Decided On : Oct-06-1952

Reported in : 1953CriLJ1357

Judge : Hemeon and ;Choudhuri, JJ.

Appellant : Hagroo Ikaru

Respondent : State

Judgement :

1. The appellant Hagroo son of Ikaru, resident of Mujbi, was convicted by the Additional Sessions Judge, Bhandara, under Section 302 Penal Code, for the murder of his wife Mst. Baru on 17.1.1952, and sentenced to transportation for life.
2. The accused is an old resident of village Mujbi. The deceased was his wife. They were married when they were quite young, and since their marriage they lived amicably together in this village.
3. The prosecution case is that on the night of 17.1.1952 the accused killed his wife inside his house with the scythe (Article A). When he was assaulting his wife she raised an alarm. Her cries were heard by the neighbours who went to her rescue. When they came to the house of the accused they found the door chained from inside. They called the accused but he did not come out. Hence they locked the door from outside. Watu (P. W. 4) and Motiram (P. W. 5) went to the Bhandara Police Station where a report was made by Watu. The head constable Sitaram (P.

W. 7) rushed to the spot. He got the door of the house of the accused opened. Mst. Barn was found lying dead inside the house. Dr. Rajurkar (P. W. 13) who held the 'post mortem' examination found as many as 11 injuries on the dead body. These injuries were all 'ante mortem'. In his opinion, the death was due to haemorrhage from the injuries in the neck. There was no doubt that the death of Mst. Baru was homicidal.

4. The accused denied all knowledge about the incident. In defence it was pleaded that the accused was suffering from insanity for the last two years and his cognitive faculty was completely impaired a few days before the occurrence and he could not judge whether he was doing right or wrong and that in a fit of insanity he killed his wife.

5. From the evidence of Motiram (P. W. 5), Sitaram (P. W. 6) as well as from the evidence of Daji (D. W. 1), it has been established that the accused shut himself with the deceased in his house and killed her with the scythe (Article A).

6. The only question for consideration is whether the appellant did the act while he was insane.

7. In - Kalicharan v. Emperor AIR 1948 Nag 20 (2)(A), it has been held as follows:

There is a clear difference between medical insanity and legal insanity. It is only legal insanity which furnishes a ground for exemption from criminal responsibility.

There can be no legal insanity unless the cognitive faculties of the accused are as a result of unsoundness of mind, completely impaired. In order to constitute legal insanity the unsoundness of mind must be such as should make the offender incapable of knowing the nature of the act or that he is doing what is wrong or contrary to law.

8. Where a plea of insanity is raised under Section 84, Penal Code, the Court has first to consider whether the accused has established that at the time of committing the act he was of unsound mind. If he does not succeed in this preliminary issue, his plea must fail. But if it is found that he was of unsound mind, then the accused has to prove that his unsoundness of mind was of a degree and

nature to satisfy one of the knowledge tests laid down by the section, viz., that by reason thereof he was incapable of knowing the nature of his act or that he was doing what was either wrong or contrary to law. It is this test which distinguishes legal from medical insanity.

9. There is evidence on record to show that the accused was of unsound mind at the time of committing the crime, (After indicating the evidence their Lordships proceeded.) But there is nothing on record to show that the unsoundness of mind was of a degree and nature to satisfy one of the knowledge tests laid down in Section 84, Penal Code. The fact that the accused assaulted his wife after taking precaution to chain the door from inside indicates that he was capable of knowing the nature of his act and what he was doing was contrary to law. He did not open the door when he was asked by Watu (P. W. 4), Motiram (P. W. 5) and Sitaram (P. W. 6)(to open it.

10. We agree with the finding of the Additional Sessions Judge that there was no legal Insanity when the accused committed the crime. His conviction under Section 302, Penal Code, is, therefore proper. The Additional Sessions Judge has imposed the lesser penalty and in view of the circumstances has made a recommendation that the same be reduced by the State Government under Section 401, Criminal P.C. We agree with, the trial Court and make a recommendation, for reduction of the sentence.

11. The appeal fails and is dismissed.