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Channabasappa Vs. State of Mysore

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Court : Karnataka

Decided On : Dec-07-1956

Reported in : AIR1957Kant68; AIR1957Mys68; 1957CriLJ985; ILR1956KAR414; (1957)35MysLJ76

Judge : Venkata Ramaiya, C.J. and ;Sreenivasa Rao, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 84, 300 and 324; Code of Criminal Procedure (CrPC) , 1898 - Sections 223 and 401; Evidence Act, 1872 - Sections 105

Appeal No. : Criminal Appeal No. 77 of 1956

Appellant : Channabasappa

Respondent : State of Mysore

Advocate for Def. : Addl. Asst. Adv. General

Advocate for Pet/Ap. : M.B. Sreenivasan, Adv. for Legal Aid Society

Judgement :

1. This is an unfortunate case in which the Appellant who is aged about 30 years stands convicted of offences under Sections 302 and 324, I P. C., for having caused hurt to his mother and death of his father by striking them with a knife on the morning of 24th September 1955 apparently for the reason that the mother

tried to persuade him not to injure himself with the knife and the father approached him in horror when there was a cry about the mother being stabbed.

The fact that the appellant inflicted wounds on himself, that the mother in fright rushed towards him that she was stabbed with the same instrument, that on arrival of the father he too was struck and killed on the spot is not and cannot be disputed as there is ample evidence-particularly that of his own mother and a neighbour who was present at the time. After the incident the appellant threw the knife aside and stayed unmoved.

The examination by the doctor disclosed that the father was dead because of the wounds on the vital parts of the body due to external attack, that the accused and his mother bore injuries on portions of the body, those of the mother being more serious than his own. The appellant did not offer any explanation for his acts but only said that he was not conscious of these. The learned Judge has held that he was capable of understanding tile consequences of what he did and is therefore guilty.

On the ground that the appellant is of weak intellect and was not actuated by any motive, the lesser sentence of transportation for life has been awarded with a recommendation for relief under Section 401 of the Code of Criminal Procedure, by Government.

2. On behalf of the Legal Aid Society which offered assistance to the appellant in conducting the appeal, Sri Srinivasan. argued that the conviction is erroneous and urged in support of it that the acts of the appellant are to be treated as those of a person of unsound mind to which criminal liability cannot be attached and that the element necessary to constitute the offence and found to be made out is not set out in the charge. The latter contention may be first disposed of as it has no force.

The grievance is that the charge imputes intention to commit the act and the finding is that the act was committed with knowledge of its effect. For this what is stated at the end of the judgment of the lower Court is referred to but this cannot be construed as a definite expression that intention in the legal sense was lacking. Rather the view appears to be that without motive, illwill or sinister purpose the

appellant acted and that he must be presumed to have known the result of it.

This is tantamount to saying that the act was intentional as intention has to be inferred from the manner in which a person acts. Learned Counsel was unable to suggest how the appellant is prejudiced by absence in the charge of words alleging that he stabbed the father with knowledge that it is likely to cause death. Nor did he indicate difference which insertion of those words would have made for the defence. The objection to the conviction as not being warrant-ed by the charge is untenable.

3. The question whether the appellant was conscious and aware of what he did involves consideration of a variety of factors. A person is presumed to be sane, possessed of understanding as to what is right or wrong, to have sense enough to anticipate what will or may happen in certain cases. That is the rule and the burden of proving the exception is on those who rely on it. Exemption from liability is provided for in the Code when the persons concerned are of the exceptional class. Section 84, I. P. C., invoked for the appellant states :

'Nothing is an offence which is done by a person who at the time of doing it, by reason or unsoundness of mind, is incapable of knowing the nature of the act or that he is doing what is either wrong or contrary to law.'

4. The appellant is not a person who can be called a lunatic or an idiot or is considered to be insane. He was married once and is said to be aggrieved at not being re-married after the death of his wife. The shop kept by the father was being managed by him. On the day prior to the occurrence he went to a place close to the village for selling articles and picked up a quarrel with another trader Narasiah. There is evidence to show that the appellant pulled the legs of Narasiah when he was walking in the street and tripped him and that the appellant was admonished for this by the father.

The mother has stated that appellant is an epileptic and the doctor whose opinion was sought before the commencement of the proceedings in the Magistrate's Court about the mental condition of the appellant has expressed, after observation for some days, that he had an attack of the disease which passed off and he was

fit to be tried. From the mere fact of his being subject to periodic fits,--the interval and the intensity of which are left uncertain, it is difficult to assume or infer anything more than that the mind is enfeebled and that his intellectual power is impaired.

Sri Srinivasan tried to persuade us to hold that the act of injuring himself and injuring the parents was committed when the appellant on account of an attack was deprived of consciousness. There is nothing in the conduct or behaviour of the appellant prior or subsequent to this which probabilises practise of violence on others during the attack. During the proceedings in the lower Court the behaviour of the appellant is stated to have been quiet, normal and no signs of his being defective in understanding were noticed.

The benefit of the section cannot be claimed by pointing to mere possibilities and impressions that without adequate motive heinous crimes are perpetrated on loving relations by persons prone to debilitating ailments when they are of unsound mind and cannot distinguish between rightjand wrong. In 45 Mys HCR 92 (A), the accusedwho was a person normally not sane, killed tworelations with whom he was not on bad relationswhen they were asleep.

The trial was postponed for two years on account of his detention in the mental hospital and was started after he was declared to be fit to be tried. It was held that Section 84 cannot be availed of as unsoundness Of mind within the meaning of the very strict terms of the section was not made out by the accused. The test laid down in the leading case of Daniel M'Naghten's case, (1843) 10 Cl & F 200 (B) is whether cognitive faculties of the mind are so impaired as to make the offender incapable of knowing that what he is doing is wrong.

The same construction is placed on the section in a number of other cases. See Easwantrao Bajirao v. Emperor State V. Koli Jeram Duda, AIR 1955 Sau 105 (D) and Palaniswami Goundan, In re : AIR1952 Mad175 . It is necessary to remember that the atrocity of the crime and absence of motive are not the criterion to constitute unsoundness of mind and are only some of the features ordinarily associated with it.

5. The appellant seems to be of highly strung nerves and abnormal temper which seem to have been aggravated by the disease and want of watchful effective check by others. It cannot be said that when he annoyed Narasiah by holding the legs and made him fall he did not know it was wrong. The self-inflicted injury signifies that after being reprimanded by the father he sought to punish himself, either because be took ft too much to heart or because he was sentimental or morbid.

The conviction is justified and the appeal is dismissed. The recommendation of the learned Sessions Judge to Government for appropriate relief under Section 401 of the Code of Criminal Procedure, however, deserves consideration.

6. Appeal dismissed.

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