

Ganesha Vs. Emperor

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Court : Allahabad

Decided On : Feb-19-1924

Reported in : AIR1925All4

Appellant : Ganesha

Respondent : Emperor

Judgement :

1. The appellant Ganesha had been convicted under Section 302, I.P.C., by the learned Sessions Judge of Jhansi of murdering his sister-in-law by striking her on the head with a lump of limestone called potni matti. The facts are clear. There was no previous enmity between the two and the accused clearly had no intention of killing her. A dispute arose over a pumpkin between the accused's wife and the deceased. The deceased 'wanted to take away the whole pumpkin whereas accused's wife only wanted to let her take half. The accused come up while the dispute was going on and broke half the pumpkin. The deceased began to abuse him whereupon the accused picked up the lump of limestone and struck her on the head with it. The result was that her skull was fractured and she died in consequence of the injury. It is perfectly clear that the accused acted on the impulse of the moment and had no intention either of killing the deceased or of fracturing her skull. The case does not come under either of the four clauses of Section 300, I.P.C. At the same time, as the lump of potni matti weighed three pounds it must be taken that he knew that there was a probability of a fatal injury being inflicted. The learned Sessions Judge considered himself bound by the

ruling in Emperor v. Umrao A.I.R. 1923 All. 355 to convict the accused of murder. The circumstances of that ruling are entirely different and it is not applicable to the present case. We alter the conviction to one under Section 304, I.P.C., and reduce the sentence to one of two years' rigorous imprisonment. We consider that a light sentence will meet the requirements of the case.

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