

**Emperor Vs. Rama Singh**

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**Court :** Allahabad

**Decided On :** Jan-29-1920

**Reported in :** (1920)ILR42All302

**Judge :** Piggott and ;Walsh, JJ.

**Appellant :** Emperor

**Respondent :** Rama Singh

**Judgement :**

**Piggott and Walsh, JJ.**

1. The facts established by the evidence in this case are as follows: The appellant, Rama Singh, had a dispute with his neighbour and caste-fellow, Ghura Singh, about the boundaries of their fields. The dispute led to a scuffle and finally Rama Singh, having armed himself with a lathi, assaulted Ghura Singh. It would seem that he struck him three blows, one of which fractured the bones of the left forearm, another fractured a bone in the right hand while the third fractured both bones of the left leg. This last must have been the third blow struck, because the evidence is that Ghura Singh fell down after receiving the blows struck by the appellant and was not again hit after he had fallen to the ground. Ghura Singh was carried to hospital. He made a report at the police station and his dying declaration was recorded twice, once by a Magistrate at Bansdih while he was under treatment in the local dispensary, and afterwards by a Magistrate at Ballia.

The first of these declarations has rightly been regarded by the learned Sessions Judge as the most important piece of evidence in the case. There are, however, also statements by eye-witnesses of the assault, which fully establish the facts above, set forth. The question which has been really argued before us is the nature of the offence thereby committed by Rama Singh. The learned Sessions Judge says that he must, by some presumption of law, be considered to have known that in inflicting these injuries he was likely thereby to cause death. That finding; as it stands, might suffice for the definition of culpable homicide in Section 299 of the Indian Penal Code, but it is not quite sufficient for the more stringent definition of murder contained in the fourth clause of Section 300. As a matter of fact, Ghura Singh died because gangrene supervened in consequence of the injury to the left leg. We have no doubt that his death was caused by Kama Singh'. We also agree with the learned Sessions Judge in holding that there is no warrant in the evidence for a finding that Kama Singh, when he struck Ghura Singh, intended to cause his death, or intended to cause such bodily injury as he knew to be likely to cause death. The most serious points in the case against the appellant are the fact that after the first dispute he went away to his house to fetch the lathi with which he committed the assault, and, secondly, the fact that Ghura Singh was an old man, apparently of feeble constitution. On the other hand, the evidence does show that Ghura Singh carried a bamboo lathi of some sort and that he defended himself with it. As a matter of fact, although none of the witnesses says in so many words that Ghura Singh also' struck Rama Singh, the learned Sessions Judge has noted in his judgment that there was evidence of some slight injuries to Rama Singh's person, presumably suffered in the course of the encounter. On the whole we -think that the learned Sessions Judge has gone a little too far in bringing the case within the definition of murder. It is certainly one of those cases in which a jury in England would unhesitatingly convict of manslaughter. We think it a very arguable point whether the conviction should be recorded as one of culpable homicide not amounting to murder under Section 304, Indian Penal Code, or simply as one of causing grievous hurt under Section 325 of the same Code. The law allows us to record a conviction in the alternative, and we think it well to do so, as we desire to mark our sense of the gravity of the case by passing the maximum sentence provided for the lesser of the two offences above referred'

to, Our order, therefore, is that we set aside the conviction under Section 302, Indian Penal Code, and the sentence of transportation for life passed by the Sessions Court, We record a conviction in the alternative under Section 304 or Section 325 of the Indian Penal Code, and we sentence Rama Singh to rigorous imprisonment for seven years, the sentence to take effect from the date of his conviction in the Sessions Court.

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