

Balkaran Vs. Emperor

Balkaran Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/449807

Court : Allahabad

Decided On : Jun-29-1910

Reported in : 7Ind.Cas.185

Judge : George Knox and ;Karamat Husain, JJ.

Appellant : Balkaran

Respondent : Emperor

Judgement :

1. Balkaran a Chaukidar and Musammat Chabraji were committed for trial to the Court of Session, Azamgarh, for an offence under Section 302-114, Indian Penal Code. The allegations against them were that on the 6th of October 1909, they administered poison to one Tahal Kahar. In the original case as sent in by the police, there was a third person charged, viz., Ram Surat. He was tendered a pardon by the Committing Magistrate and turned King's evidence. The learned officiating Sessions Judge in a very long judgment, in which he has gone most fully into the evidence, convicted Balkaran, but acquitted Chabraji. Balkaran appeals and his case has been represented to us by learned counsel. We have been taken through the whole evidence. The main evidence against the accused is the evidence of the approver Ram Surat. We find ourselves in this difficulty that the learned Sessions Judge believes the evidence of the approver so far as it is against Balkaran, but he refuses to believe the approver so far as his evidence goes against Chabraji, although it told heavily against her. The evidence of the

approver has to be most carefully analyzed and considered. It must be so far above all suspicion that a Court has no alternative but to accept and act upon it. But when we find that the approver is swearing positively that both of the accused committed the offence and the Court believing him only as against one, there is no alternative but to reject the evidence of the approver altogether. We have no doubt that Tahal met his death by poison administered to him. The hands which administered the poison, if we are to believe the approver, were the hands of the approver himself and Musammat Chabraji. Balkaran according to the approver suggested to poison Tahal and looked on while the poison was being administered. If we refuse to believe the approver as to the first part of his story, how can we have confidence in him so far as the rest of the story is concerned? There are other suspicious points in the case. It is needless to go into these. We allow the appeal, find the offence not proved against Balkaran, set aside the conviction and direct that Balkaran be released.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com