

Emperor Vs. Jeoli

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SooperKanoon Citation : sooperkanoon.com/450892

Court : Allahabad

Decided On : Nov-01-1916

Reported in : (1917)ILR39All161

Judge : Henry Richards, C.J. and ;Pramada Charan Banerji, J.

Appellant : Emperor

Respondent : Jeoli

Judgement :

Henry Richards, C.J. and Pramada Charan Banerji, J.

1. Musammat Jeoli has been convicted of the murder of one Madhania and sentenced to death. She was also convicted of an attempt to murder Harwa (her husband). She has also been sentenced to 10 years' rigorous imprisonment for an offence under Section 328. The sentences were directed by the learned Sessions Judge to run concurrently. The evidence establishes beyond all possible doubt that Madhania died as the result of eating halwa which had been prepared by the accused, The accused has all along, even in her petition of appeal to this Court, admitted that she prepared the halwa and put into it a certain drag. Besides the husband Harwa and Madhania two other brothers of Harwa and a cousin also partook of the halwa and suffered considerably. Madhania, however, was the only person who died. Sometime previous to the commission of the alleged crime an intrigue had been going on between the accused Masammat Jeoli and a Lodh of

the name of Ganna. The accused has all along stated that the poison which she put into the halwa was given to her by Ganna for the purpose of administering it to her husband. Ganna was tried at the same time but acquitted by the learned Judge. He considered that the only evidence against Ganna was the fact that there had previously been an intrigue between him and Jeoli and the statement made by the Musammat herself. He did not consider this sufficient to justify a conviction. Mr. Muahran, who appears on behalf of the appellant, has raised three points on behalf of the accused. First, he contends that it is necessary that it should be proved that she knew that the stuff which she put into the halwa was poisonous. Secondly, that the evidence and circumstances clearly show (even assuming that she intended to murder her husband) that she never intended to murder the others. On the contrary she tried to prevent their taking the poisoned sweets. He contends that on these facts the accused is not guilty of murder at all. Lastly, he appeals to us to change the sentence to a sentence of transportation for life, first, because the accused did not intend to murder Madhania, secondly, because she is less guilty than the person who gave her the poison, and lastly because she is a young woman aged only about 20 years.

2. We are quite satisfied that the woman knew that what she was putting into the sweets would cause the death of her husband. She has admitted this herself before Mr. Harper though now she says it was an innocent medicine. We think that Mr. Mushran is correct in his contention as to the inference to be drawn from the facts. We do not believe that the accused intended to murder Madhania or any one else except her husband, and we believe that she would, if she could, have prevented any one excepting her husband partaking of the poisoned food. Nevertheless we are of opinion that the accused is guilty in law of the murder of Madhania. Section 299 of the Indian Penal Code defines the offence of culpable homicide in the following terms: 'Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.' It has been pointed out before now that the intention of causing death is not the intention of causing death to any particular person. The first illustration shows that a person can be guilty of culpable homicide of a person whose death he did not intend to cause. Section

301 is as follows: 'If a person by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.' It seems to us that the accused was guilty of the culpable homicide of Madhania, having regard to the definition of that offence in Section 299, and we think that Section 301 clearly makes the culpable homicide murder notwithstanding that there was no intention actually to murder Madhania. The matter was fully discussed in the case of the Public Prosecutor v. Muahunooru Suryanarayana Moorthy (1912) 18 Indian Cases 833. The case is very similar to the present, and we agree with the view taken by the majority of the learned Judges. Agnes Gore's case 77 English Rep., 853 was referred to. In that case the accused intending to murder her husband mixed poison with his medicine. The husband, not liking the taste, would not take the medicine. The apothecary in order to vindicate his reputation and insisting that the medicine had been properly prepared drank it himself and died. The Judges were unanimously of opinion that the accused was guilty of murder.

3. With regard to the sentence which should be passed upon the accused, we can see no extenuating circumstance in the fact that Madhania was her victim instead of her husband. It is true that she is quite young. Nevertheless poisoning cases are very prevalent and extremely difficult to detect. Notwithstanding that Ganna has been acquitted, there is no doubt considerable probability that the woman's story is true that it was he who gave her the poison to administer to her husband. We have taken all these circumstances into consideration, but we are unable to see any sufficient reason for altering the sentence imposed by the learned Sessions Judge.

4. We dismiss the appeal, confirm the conviction and sentence and direct that the latter be carried into execution according to law.