

Emperor Vs. Sheodarshan Singh

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Court : Allahabad

Decided On : Jan-18-1922

Reported in : AIR1922All487; (1922)ILR44All332

Judge : Gokul Prasad and ;Stuart, JJ.

Appellant : Emperor

Respondent : Sheodarshan Singh

Judgement :

Gokul Prasad and Stuart, JJ.

1. Sheodarshan Singh was committed to the court of the Sessions Judge of Banda on a charge under Section 302 of the Indian Penal Code. The Sessions Judge found that on the facts an offence under Section 302 of the Indian Penal Code was not made out but that an offence under Section 304 of the Indian Penal Code was made out. He, accordingly, found Sheodarshan Singh guilty under that section and sentenced him to seven years' rigorous imprisonment. The judgment of the Sessions Judge being brought to the notice of Piggott, J., on perusal of the sessions statement, he directed that notice should go to Sheodarshan Singh to show cause why he should not be convicted of the offence of murder or why the sentence passed upon him should not be enhanced. It is to be noted that Sheodarshan Singh did not appeal against his conviction. He has, however, been represented before us in the matter of enhancement by a competent counsel who

has taken us through the whole of the evidence in the case. On the evidence, it is perfectly clear that on the day in question a man called Sukhnandan was sitting under a tree in Ainchwara, in the Banda district, and that Sheodarshan Singh was sitting close by him. There is nothing to show how a quarrel arose between the two, but at about 2 p.m. in the afternoon, Sheodarshan and two other men set on Sukhnandan with lathis. Sukhnandan got up and ran away endeavouring to escape. They followed him, brought him down, and continued to rain lathi blows on him. Sukhnandan succumbed to his injuries. The injuries inflicted upon him were about as severe injuries as could be inflicted upon a human being with lathis. His skull was fractured. There were no less than 19 injuries upon the head and there were also other injuries upon the body. The man was battered to death in a most deliberate and merciless way. Apart from other evidence, three persons, Parshadi, Musammat Chunki and Khushali, who assert that they were eye witnesses of the affair and whom we see no reason to disbelieve, have deposed that Sheodarshan took part in the brutal assault upon the deceased. These witnesses were believed by the Sessions Judge and the assessors. Now, upon these facts, Sheodarshan Singh was undoubtedly guilty of murder. The reasons given by the Sessions Judge for finding that the offence committed was less than a murder show, we regret to say, a complete want of acquaintance with the law on the subject. He appears to think that if there is no premeditation and if an attack is made with lathis such as are usually carried by villagers, it is impossible for the offence to be murder. We suggest to the learned Judge that he should carefully study the provisions of Sections 299 and 300 of the Indian Penal Code. He will then find that when death is caused by an act which has been done with the intention of causing bodily injury and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, the offence is murder. We cannot, however, change the conviction into a conviction of murder. Sheodarshan Singh was acquitted by the Sessions Judge of the offence of murder and we cannot, in revision, convert a finding of acquittal into one of conviction. The only method by which it would be possible to obtain a conviction of murder would be by an appeal by the Government against the acquittal. But even if the Sessions Judge had been right in his views and the case had been a case of culpable homicide, the sentence is inadequate. Taking it as a case of culpable homicide, it is about as

bad a case of culpable homicide as can be conceived and was a case in which the maximum sentence allowed by the law should have been inflicted. We inflict that sentence now by enhancing the sentence of seven years' rigorous imprisonment into one of transportation for life.

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