

**Sukhai Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/461120](http://sooperkanoon.com/461120)

**Court :** Allahabad

**Decided On :** May-19-1925

**Reported in :** AIR1925All676; 157Ind.Cas.1049

**Appellant :** Sukhai

**Respondent :** Emperor

**Judgement :**

1. The accused Sukhai has been convicted under Section 302 of the Indian Penal Code of murdering his wife Musammat Sukhia and sentenced to transportation for life. The commission of the offence is admitted, and the question is whether the offence is one under Section 302 or Section 304. On 29th November, 1924, Dharam Raj, headman of Mouza Deopar, found the dead body of a woman with a number of wounds on it in his grove through which he was passing. He informed the Chaukidar who made a report. The body still had ornaments on it and some pieces of glass bangles were picked up near-where the body had been lying. It was not known at first who the woman was but she was identified through one Musammat Jagrani who had known her as Musammafe Sukhia the wife of the accused. The Sub-Inspector then proceeded, on 30th November, to the house of the accused. He found the house shut up. The accused had shifted to another house. The Sub-Inspector went there and found him. Eventually the accused gave up some ornaments to the Sub-Inspector, and a kurta and dhoti bearing stains of blood were found in his house. In the pocket of the kurta was a knife. The accused was sent before a Magistrate and made a confession under Section 164 of the

Code of Criminal Procedure to which he has adhered both before the committing Magistrate and at his trial.

2. There is no doubt that the deceased woman was grossly immoral. The accused has told a long story of her repeated misbehaviour and how in order to look after her, he had to give up going out to other villages for work he is a goldsmith and do his work at home. Eventually he left home with her which intent to go to Bengal; but in spite of repeated promises she did not reform. On the day of the murder they were intending to return together, along with their little girl aged seven, to their village Madhwapur. They arrived at Bhatni station in the afternoon and had to wait for a train till about 10 p.m. While they were there the accused says that he found his wife just outside the station having intercourse with a man. He threw a brick at the man who went away. This story sounds incredible but it is corroborated by the evidence of the accused's little girl Mt. Nanki and the learned Judge appears to have accepted it. At any rate they travelled together to Salimpur and there alighted and proceeded to the grove at Deopar where the body was found. The accused's account of what followed is that after the girl had gone to sleep he upbraided his wife with her misconduct. Instead of being repentant she said that she would again do such acts upon his head. Thereupon he became enraged and struck her with a stick. She struggled with him and got hold of his fingers and bit them. He then lost control of himself and took out a knife and began to stab her with it. He does not know how many blows he inflicted. The medical evidence shows that he went on stabbing her repeatedly. The Civil Surgeon has detailed a list of fifty three different injuries on the body. Many of these were minor injuries, and, as the learned Judge says, the medical evidence shows that there were not less than a hundred injuries on the body altogether. The account of what happened at the grove receives corroboration from the fact that the accused was medically examined when he was admitted to jail and there were marks on his fingers which might have been the marks of teeth.

3. The Judge has believed the accused's story to be the substantial truth and we must accept it as such. We think that the immediate provocation at the grove coming on top of all that had gone before was sufficient to come within Exception 1 to Section 300 of the Indian Penal Code and to reduce the offence from murder

to culpable homicide. We are prepared to make some reduction of offence and sentence, but we cannot leave out of account altogether the very savage nature of the attack which was made on the deceased and the large number of injuries which were inflicted by the accused. We alter the conviction to one under Section 304 of the Indian Penal Code and reduce the sentence to one of ten years' rigorous imprisonment.

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