

Piare Vs. Emperor

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Court : Allahabad

Decided On : Jul-02-1919

Reported in : AIR1919All389; 52Ind.Cas.224

Judge : George Knox, A.C.J. and ;Stuart, J.

Appellant : Piare

Respondent : Emperor

Judgement :

1. Notice was served on Piare to show cause why he should not be convicted of an offence punishable under Section 302 of the Indian Penal Code. Piare has been defended in this Court by a learned Vakil, and we have heard what is to be said in his behalf. The evidence shows that the man Bansi went to the house of Piare to collect rent due from Piare, but when there he was assaulted by Piare, who went into his house, fetched a lathi and dealt him one blow on the head. Bansi dropped down and two others, who were assisting Piare, joined in assaulting Piare, We are not concerned with them at present. The learned Sessions Judge appears to us to have quite misunderstood the case. The post mortem shows that the blow inflicted by Piare was so severe that it caused a fracture, at the base of the skull. It was for Piare to show that the blow which he struck under these circumstances was not an act of wilful murder. He has not brought it under any exception to Section 300. If a man takes a lathi and deliberately assaults another on the head with the result that the skull is fractured,

that act is murder unless the accused can show that it was removed from the category of murder by one of the exceptions to Section 300. We alter the conviction to one under Section 302 and the sentence will be a sentence of transportation for life with effect from the 25th of March 1919.

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