

Mt. Ram Kumari Vs. Rex

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Court : Allahabad

Decided On : Sep-29-1948

Reported in : AIR1949All329

Appellant : Mt. Ram Kumari

Respondent : Rex

Judgement :

1. The appellant Mt. Ram Kumari, aged about 30 or 35 years, was convicted by Mr. M. C. Desai, Sessions Judge, Lucknow, on 26th July 1948, under Section 302, Penal Code, and sentenced to death. The usual reference for confirmation of the death sentence is also before us and she has filed an appeal against her conviction. She was charged with an offence under Section 302, Penal Code, and in the alternative with an offence under Section 201, Penal Code. For the offence under Section 302, Penal Code, she was tried with the aid of assessors and for the offence under Section 201, Penal Code, she was tried by the same assessors as jury, and the unanimous verdict of the jury was that the appellant is guilty under Section 201, Penal Code. The learned Sessions Judge, however, did not agree with the verdict of the jury solely on the ground that as in his opinion the appellant was guilty under Section 302, Penal Code, she could not be convicted under Section 201, Penal Code, and accordingly has made a reference to this Court under Section 307, Criminal P.C. (Their Lordships then stated the case for the prosecution and after discussing the evidence came to the conclusion that the offence of murder had not been brought home to the appellant. Then their

Lordships proceeded as follows:)

2. The learned Sessions Judge has made a reference to this Court that the verdict of guilty recorded by the jury under Section 201, Penal Code, is not sustainable because the appellant is her-self guilty under Section 302, Penal Code. The learned Judge himself told the jury that if they hold the appellant to be guilty under Section 302, Penal Code, they could not convict her under Section 201, Penal Code, but they could convict her if the murderer was somebody else. The jury acting as assessors under Section 302, Penal Code, were of the opinion that the appellant was not guilty of murder and. was not the murderer, and therefore the verdict returned by them was in accordance with the direction of the Judge. However, the learned Judge is of the opinion that the murderer himself cannot be convicted under Section 201, Penal Code. This view is not warranted by law. Section 201, Penal Code, reads as follows:

Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part; of the longest term of the imprisonment provided for the offence, or with fine, or with both.

3. The language is perfectly general and there is really no justification for holding that the offender cannot be punished for the offence of concealing evidence or causing the disappearance of evidence of the commission of the offence by

himself. In Emperor v. Har Piari and Ors : AIR1926 All737 the Allahabad High Court has held differing from its earlier decisions that:

A person who has actually committed a crime himself whether murder or any other crime -is none the less guilty of removing traces thereof, if it is proved against him that he has done so, because he was the person who actually committed the offence.

The view of law taken by the learned Sessions Judge is, therefore, incorrect. We have, however, to see whether in the circumstances of this case the verdict of guilty returned by the jury is liable to be interfered with. We are satisfied that it must be in this case. (After considering the evidence in this respect their Lordships concluded.) Accordingly the reference of the learned Sessions Judge for setting aside the verdict of the jury is accepted.

4. The result, therefore, is that we must hold the appellant to be not guilty of any offence at all. Accordingly we allow the appeal, set aside the conviction and sentence and direct that the appellant Mt. Ram Kumari shall be released forthwith unless required in any other case. The reference for confirmation of the death sentence is rejected.

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