

Laik Singh Vs. Emperor

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Court : Allahabad

Decided On : Nov-08-1918

Reported in : AIR1919All185(2); 46Ind.Cas.169

Judge : Piggott and ;Walsh, JJ.

Appellant : Laik Singh

Respondent : Emperor

Judgement :

1. Laik Singh has been found guilty of the murder of his own half brother, Bhagwan Singh, under the following circumstances. There had been bad blood between the parties previously, because Bhagwan Singh and his own brother Gobardhan Singh had inherited property to which Laik Singh had no claim. On the day mentioned in the charge a trumpety dispute broke out between Laik Singh and Bhagwan Singh about a manure heap standing in a field just curtsied the village sits. There was an interchange Of abuse and then the two came to blows. The witnesses are not altogether clear in their statements as to the nature of this scuffle; but it seems fairly certain that Bhagwan Singh had some sort of stick or cane in his hand, whereas Laik Singh was empty-handed to start with. Moreover, Gobardhan Singh, brother of Bhagwan Singh, who is the principal witness for the prosecution, admits that he himself was coming up to help his brother, so that the accused had reasonable ground for supposing that he might ' almost immediately be called upon to defend himself against an attack by two other men. According to

the evidence this scuffle was going on ten paces from the accused's house. The latter broke loose, ran into his house and came out, apparently at once, with a chopper in his hand. With this he attacked Bhagwan Singh, inflicting more than one injury; but he allowed himself to be disarmed by Gobardhan Singh, though the latter seems to have received three slight cuts in the process. Bhagwan Singh reached the hospital at 6 p.m. that evening, June the 29th. The Sub-Assistant Surgeon says that he then found upon Bhagwan Singh's person one incised wound on the left shoulder about an inch deep, a slight cut on the left thumb and three contused wounds on the head. None of them were more than skin deep, and one at least of them apparently caused by a fall. All the injuries seemed to him to be simple, but he desired to keep Bhagwan Singh in the hospital while he treated him for the wound in the shoulder. On the morning of July, the 1st, Bhagwan Singh left the hospital, without consulting the medical officer or informing him of his intention, but he came back on the evening of July the 2nd. By that time the wound in the shoulder, not having been properly dressed for two days, had deteriorated in condition. The injured man remained in the hospital until the night of the 7th to 8th of July 1918, when he again went away of his own accord; The Sub-Assistant Surgeon does not seem to have thought his condition serious, although he found that the man was suffering from fever, by which he presumably means that he had a temperature above the normal. As a matter of fact Bhagwan Singh died on the 11th of July. The Civil Surgeon, when conducting the post mortem examination, found only two wounds. The contused wound referred to in his evidence, of which he does not give the location, was presumably one or other of the slight injuries to the head which the Sub-Assistant Surgeon had observed on June the 29th. The other injury was the incised wound on the left shoulder. The Civil Surgeon found that it penetrated through the head of the left humerus into the shoulder joint. The actual cause of death was apparently septic pneumonia, but the Civil Surgeon is of opinion that this had resulted from the injury to the shoulder. The question is, on these facts, what is the offence of which Laik Singh ought to be convicted. It is open to argument whether he should be held to have caused the death of Bhagwan Singh within the meaning of Explanation 2 to Section 299 of the Indian Penal Code. There must obviously be a limit somewhere; and a man who in the course of a trifling scuffle was found to have inflicted a slight cut or abrasion on the

finger of another man, which being neglected by the latter became infected in some manner, so as to induce tetanus as a result of such infection, could scarcely be held to have caused the death Of the other. The present case seems very mush on the border line and a good deal might depend on the reasons which the Civil Surgeon might have given under a stringent cross-examination for his opinion that the septic pneumonia was directly connected with the wound in the shoulder, and also on any opinion which he might have expressed under cross-examination as to the degree of danger to life which he would ordinarily expect to result from such an injury as that from which Bhagwan Singh was suffering. As a matter of fact the statement of the Civil Surgeon was very briefly recorded and does not give us very much help, although there seems no doubt that in his opinion the wound in the shoulder was, as he puts it, ' the probable cause of death through septic pneumonia. ' Under the Indian Penal Code, however, the question of culpable homicide is made to turn mainly on the intention or knowledge of the accused. In the present case we think it may fairly be inferred that there was no intention of causing death, or even of causing such bodily injury as was likely to cause death. When he came out of his house with the chopper in his hand, the accused was in a position to have inflicted upon Bhagwan Singh any injury which he seriously and resolutely intended to inflict. On the evidence it would seem that he only struck at him in a half-hearted manner, and he certainly allowed himself to be disarmed after a short scuffle. This is not one of those oases in which the nature of the injury inflicted enables the Court to infer with certainty that the person who struck the blow resulting in such injury must have intended at the moment to cause death, or injury of a most serious nature. It seems to us fairly open to the Court on this evidence to conclude that the injury to which Bhagwan Singh eventually succumbed was not inflicted with such intention or knowledge as to bring the case within the definition of culpable homicide. We may add that we should in any event have been disposed to convict the accused of culpable homicide not amounting to murder, both on the ground of the provocation he had received and on the ground that he had acted at the outset in the exercise of a right of private defence, although he had very greatly exceeded such right. On the whole, however, the conclusion we come to is that the conviction of Laik Singh should be recorded under Section 326 of the Indian Penal Code. He caused grievous hurt by inflicting

an injury which endangered life and may fairly be presumed to have intended to cause at least grievous hurt when he attacked Bhagwan Singh with such a weapon as this chopper. He, therefore, caused grievous hurt with an instrument for cutting, and also with an instrument which used as a weapon of offence might easily cause death. The case falls under Section 326 of the Indian Penal Code. We set aside the conviction and sentence in this case and altering the conviction as above stated to one under Section 326 of the Indian Penal Code, we sentence Laik Singh to undergo rigorous imprisonment for six years from the date of his conviction in the Court of Session.

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