

Sattar Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Nov-23-1979

Reported in : 1979WLN685

Judge : P.D. Kudal and; Mahendra Bhushan, JJ.

Appeal No. : D.B. Criminal Jail Appeal No. 447/79

Appellant : Sattar

Respondent : State of Rajasthan

Disposition : Appeal allowed

Judgement :

P.D. Kudal, J.

1. This is an appeal from jail by the accused against his conviction dated 2-7-79.
2. The accused-appellant was facing trial under Section 302, IPC for committing murder of his wife, Smt. Prem. The learned Additional Sessions Judge, Gangapur City, framed a charge against the accused under Section 302, IPC on 2-7-79. The accused pleaded guilty, and it is on this plea of guilty that the accused has been convicted by the learned Additional Sessions Judge under Section 302 IPC, and sentenced to imprisonment for life and a fine of Rs. 200/- or in default to undergo further rigorous imprisonment for one month.

3. The accused has now filed this appeal from jail.

4. On 2-9-79, the accused on being questioned by the learned Additional Sessions Judge states as under:

eq>s vijk/k Lohdkj gS A eSus viuh ifRu dh gR;k dh Fkh D;ksfd eS nks ekg ls ijs'kku
Fkk A oks cnpyu Fkh A

Treating this as a plea of guilt, the learned Additional Sessions Judge convicted the accused, as stated above.

5. Under Section 229, Cr PC, 1973, it has been stated that if the accused pleads guilty, the judge shall record the plea & may in his discretion convict him thereon. In *Vijja v. The State* 1969 (19) I.L.R. Raj. 101 the accused pleaded guilty to the charge & the prosecution did not examine any witness. The statement of the accused was recorded as a defence witness. It was held that the accused cannot be convicted on the basis of the statement of the accused as a defence witness. In this particular case, the accused pleaded guilty to the charge in the following terms:

I have heard the charge and understood it. I admit to have ,committed the offence. I have intentionally murdered Navia. I want to give my statement on oath and for that purpose I have made an application separately. I do not want a trial.

This plea of the accused in the case referred to was not accepted by this Court. Murder is a mixed question of law and fact, and unless the Court is satisfied that the accused knew exactly what was implied by his plea of guilty, the plea should not be accepted, but the Case should be tried specially where the accused is an ignorant person. In the instant case, the charge was framed on the same day, the plea of the guilty was recorded on the same day, the conviction was recorded on the same day, and the sentence was also imposed on the same day. Under these circumstances, it appears that though the Court had a discretion to accept the plea of the guilt, but the discretion should be judiciously exercised. It is safer for the courts to explain to the accused as fully as possible the technical ingredients of the offence and fully satisfy itself that the accused has understood them before the plea of guilty is accepted and a conviction is based thereon. The learned

Additional Sessions Judge has basically relied upon the word 'Hatya' in the plea of guilty by the accused. The details of the injuries were not put to the accused. It has normally been the practice that in murder cases the plea of guilt should be accepted with due caution and vigilance.

6. We, therefore, accept the appeal of the accused appellant, set aside the conviction and sentence of the accused and remand the case to the learned Additional Sessions judge, Gangapur City, for a fresh trial according to law. The trial of the case is directed to be expedited.

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