

In Re: Periyaswami Asari

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SooperKanoon Citation : sooperkanoon.com/778704

Court : Chennai

Decided On : Aug-12-1948

Reported in : 1949CriLJ240; (1948)2MLJ452

Judge : Govindarajachari and; Mack, JJ.

Appellant : In Re: Periyaswami Asari

Judgement :

ORDER

Mack, J.

1. This is a tragic case. The appellant in this jail appeal has been convicted under Section 302, Penal Code, of the murder of his own mother and sentenced to transportation for life. The facts are these.

2. The appellant's father died about 16 years ago. His mother then lived in concubinage with one Krishna Pillai for the past 15 years. The appellant is only 19 years old. On the morning of 19th February 1948, at about 8 a. m. the appellant appeared with a blood stained knife before the village Munsif and made a statement to the effect that he had stabbed his mother half an hour before with a knife in her chest. In a confession statement he made to the Taluk Magistrate a few days later he explained that his mother settled all her property on Krishna Pillai, that he had been asking her for a long time for his share and his brother's share in her property and also asking her to arrange for his marriage. He

complained that far from agreeing she would not even cook for him and that about four days prior to this tragedy his mother and Krishna Pillai went to another village and came back. When she refused to cook for him that morning he stabbed her in front of his house. Krishna Pillai's father-in-law, P. w. 8, deposed that that very morning the appellant asked him to prevail on his mother to give him money for his marriage but his mother despite his representations put the matter off. There can be no doubt, whatsoever, that the appellant did stab his mother that morning with murderous intention and that he has been correctly convicted of murder. The learned Sessions Judge found many mitigating circumstances in the provocations given to the appellant by his mother in order to pass on the appellant the lesser sentence. We think that the mitigating circumstances are sufficiently cogent in this very difficult case of criminal psychology to justify a recommendation to Government to give this appellant special treatment under Section 10-A, Madras Borstal Schools Act (V [5] of 1926) and in exercise of their prerogative under Section 401, Criminal P. C, to remit a portion of his ordinary punishment. There has been no sudden provocation in the present case but long and sustained provocation which resulted in a complete break-down of control. The appellant has been the victim of an abnormal and unnatural environment bereft of maternal affection and we do not think that this is a fit case in which he should serve a long term of life imprisonment in an ordinary jail. I was a party to the recent decision reported in, *In re Krishnaswami alias Eittan* : (1948)2MLJ115 , where Horwill J. and I recommended rather a similar case for treatment in a Borstal institution under Section 10-A, Borstal Schools Act. Subject to this recommendation this appeal is summarily dismissed.