

**In Re : Veluchami thevar**

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**Court :** Chennai

**Decided On :** Apr-08-1964

**Reported in :** 1965CriLJ184

**Judge :** Anantanarayanan and ;Ramamurti, JJ.

**Appellant :** In Re : Veluchami thevar

**Judgement :**

**Anantanarayanan, J.**

1. This is an extraordinary case and, though the facts have been established beyond any element of reasonable doubt, we are constrained to comment upon certain of the psychological aspects of this case, with regard to the matter of sentences. The appellant, Veluchami Thevar, married a certain Sundaravalli, P.W. 1, in October-November 1962. Ravi (deceased) was a friend of the appellant, and was employed along with him; he was a guest at the wedding. The record does not justify the slightest suspicion' that Ravi (deceased) was really on terms of improper relationship with Sundaravalli, P.W. 1, Learned Counsel acting as amicus curiae has drawn our attention to the fact that Sundaravalli, P.W. 1, had been previously married and divorced. But the appellant was perfectly aware of this, and divorce was sanctioned by the social standards of the community to which these persons belonged.

2. Very unfortunately, the appellant entertained powerful suspicions about the fidelity of his-wife P.W. 1, in relation to Ravi (deceased). Thereafter, he seems to have behaved to P.W. 1 in a manner that shows that he abandoned all standards of humanity, and even decency, with regard to his wife. On one occasion, P.W. 1 was branded on the right palm with a hot iron by the appellant; on another occasion, she was gagged by the appellant, and cut on the left cheek. Even under such-circumstances, in response to demands of the appellant about her relationship with others, P.W. 1 maintained that she had no paramour, and that she-was a chaste wife.

3. On the night of 26.8.1963, the night of offence, the appellant behaved to P.W. 1 in a particularly revolting and sadistic manner. At about 11 p.m. he took her to a lonely place in a field, compelled her to stand naked, and then gave her blows with his leather belt in her back. Even-under this most painful and humiliating ordeal P.W. 1 seems to have maintained her verbal assurances about her chastity. Not content with this, the appellant took P.W. 1 back home, and wanted her to confess about a paramour on threat of strangulation. Afraid for her life, P.W. 1 made a confession that Ravi (deceased) was her paramour as the appellant had suspected. The case is a very clear instance of psychological truth that a man who entertains unworthy suspicions will find material somehow for proof of his suspicions, though the suspicions themselves might be totally false. The appellant then took out a cloth, gagged the mouth of his wife with it, and cut off some of her hair on the head. He then cut her right ear with his knife, closed her nose with a towel and took a bigger knife and cut her right breast. After this, he changed his clothes and left the house taking the two knives at 2 p.m.. The P.W. 1, released herself and raised an alarm. Her evidence is corroborated by that of a neighbour P.W. 7, a retired police constable, who came in response to her cries. It is also corroborated by the doctor who examined her, and found an abrasion on her right ear, an incised wound just above the right nipple of breast, and two other simple injuries.

4. It is after this that the appellant went to the tea hotel run by P.W. 8 where himself and Ravi (deceased) were employed. Apparently, the appellant was sure that Ravi (deceased) would be sleeping there. At about 2-45 a.m. the appellant

came there and went to the lane or place north of the hotel where Ravi (deceased) and P.W. 2, 3 and 4 were resting. Ravi (deceased) according to his dying declaration, Ex. P. 1, was not asleep but resting. The appellant then stabbed the deceased and ran. The deceased shouted that the appellant had stabbed him, staggered towards the shop and fell in front of it. P.Ws. 2 and 3 attended on Ravi (deceased). Learned Counsel for the appellant points out that the night was dark and that P.Ws. 2 and 3 did not purport to say that they saw the appellant stabbing Ravi. There can be no doubt at all about this, in view

5. The subsequent facts are heavily against the appellant. At about 3-15 a.m. the appellant went and surrendered himself at Sivakasi police station before a head constable, P.W. 13, along with the two knives M.Os. 1 and 2. His statement has not been admitted in evidence but his surrender with bloodstained weapons is a relevant piece of conduct admissible under the law of evidence, which is of the utmost significance. Nor merely this. The appellant later made a voluntary confession to the Sub Magistrate, P.W. 11, which was recorded as Ex. P. 11. In this statement, the appellant gives a long account of his marriage, admits that he treated P.W. 1 in a very cruel fashion, and then confesses that he went where Ravi (deceased) was sleeping, and stabbed him in the stomach.

6. We cannot conceive of a case in which the evidence could be more clear and conclusive. The autopsy conducted by P.W. 10 shows that the unfortunate Ravi, who was, in all probability, quite innocent, had sustained very grave internal injuries because of this stab wound, to his right kidney and right ribs. In brief, he was stabbed to death with a single cruel blow. Under the circumstances, we are unable to see the slightest ground for doubting the propriety of the convictions under Section 802 I.P.C. for the murder of Ravi, and under Sections 824 and 355 I.P.C. in respect of the cruel treatment and injuries caused to P.W. 1. The convictions are accordingly confirmed.

7. With regard to the sentence, we are constrained to observe that the learned Sessions Judge has given no reasons for imposing the lesser sentence, in paragraph 49 of his judgment, though in paragraph 45 he expresses the view that the appellant had the excuse that he was wounded in his tenderest feeling by his

wife's ultimate confession. Unfortunately, the State has preferred no revision-upon the matter of sentence and we hence feel most reluctant to interfere. But, in the interests of justice, we are constrained to point out that this is a case in which the extreme penalty of the law definitely appears to be called for. The learned Sessions Judge seems to have been of the view, judging from paragraphs 42, 43 and 44 of his judgment, where he discusses the question whether the murder of Ravi could amount to a lesser offence, that the wife, P.W. 1, was perhaps of unchaste conduct, and that she perhaps had criminal intimacy with Ravi (deceased). We are totally unable-to agree, and we have to point out that any such inference is quite against the probabilities.

The learned Judge points to the sudden confession on the part of P.W. 1, which might have surprised the appellant and waken him off his balance. We are somewhat surprised at this line of reasoning. According to the unimpeachable evidence, the appellant tortured his wife in a very cruel and sadistic manner, and extorted a confession from her under threat of strangulation. We are totally unable to see how the slightest value of credence could be attached to a confession of a wife wrung from her under such circumstances, by a temporarily insane husband. On the contrary, the previous conduct of P.W. 1 in persisting in the affirmation of her chastity, notwithstanding the shameful and cruel treatment meted out to her by the husband (accused) compels us to conclude that P.W. 1 was in all probability a very much-wronged and innocent wife. The appellant seems to have worked himself up into a mood of insane-suspicion and jealousy, and to have stabbed his friend, who perhaps did not betray him at all, deliberately, because he allowed this jealousy to-cloud and darken his mind. The offence was deliberate, and shows signs of planning. It was very cruel, and we are unable to see any mitigating circumstances about it. We are making these' observations because we wish to make it very clear' for the guidance of courts of trial, that while there is a judicial discretion vested in Sessions fudges to award the lesser penalty in a case of murder, and the Criminal Procedure Code, as now amended, does not require reasons to be stated, this does not mean that any special pleading or formal excuse should displace such properly bestowed judicial discretion and thought. It is the duty of the courts to award the extreme penalty of the law, for purposes of deterrence, in all cases of murder, where the crime is deliberate and there are no

extenuating features. That duty cannot be shirked merely because there is a discretion vested in courts, and because it might be irksome to award the extreme penalty. With these observations, the sentences are also confirmed and the appeal is dismissed.

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