

In Re: Govindaswami Padayachi

In Re: Govindaswami Padayachi

SooperKanoon Citation : sooperkanoon.com/786263

Court : Chennai

Decided On : Jul-31-1951

Reported in : AIR1952Mad174; (1951)2MLJ356

Judge : Govinda Menon and ;Ramaswami, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 84

Appeal No. : Criminal Appeal No. 882 of 1950

Appellant : In Re: Govindaswami Padayachi

Advocate for Def. : Public Prosecutor for State

Advocate for Pet/Ap. : Perween Amiruddin, Adv.

Disposition : Appeal dismissed

Judgement :

1. The point taken before us by the learned counsel for the appellant is that he should have been given the benefit of Section 84, I.P.C. and acquitted.

2. In order to comprehend the point taken by the learned counsel for the appellant, which was also urged in the lower Court, the following short facts are necessary. The appellant who is described by the learned Sessions Judge as aged about 16 and whom the record of the lower Court shows to be 18 had a bitter quarrel just preceding this occurrence with his mother, the deceased in this case, regarding

the execution of a promissory note by his brother. Then this appellant asked his mother to serve him food. The Irritated mother told him that he should either serve himself or get his father who was in the fields to serve him. The accused thereupon in a fit of rage dragged his mother inside the hut, bolted the door and bashed his mother with a spade lying nearby. The cries of the mother attracted the people in the neighbourhood, and when they came, they found the door shut and bolted against them. Therefore, they asked the door to be opened and the accused did not open the door. Therefore, the neighbours started hammering on the door and threatened to batter it. The accused thereupon opened the door and came out. Subsequently when he was questioned, as he would be naturally questioned by the neighbours, he has been telling one and all that he killed his mother, because she repeatedly refused to serve him food. Then he has also pointed out to a relative the spade with which he had committed the fell deed. It is significant that when the accused was questioned by that relative and before he showed the spade, the accused was red with anger, showing clearly that with the repeated refusal of his mother he became enraged and committed the deed and his anger has not subsided even thereafter. The accused then finally told the people that the corpse might be shown to the elders of the village and then cremated, clearly recognising that it was not the normal mode of death and that an offence had been committed relating thereto and that therefore the elders of the village should adjudge before the corpse was given its last rites.

3. On these facts, the learned Sessions Judge came to the conclusion that the accused might have been abnormal and been even showing signs-of insipient insanity before the commission of this offence and that he might have become, after the commission of this offence and when he was incarcerated, worse still and become a real lunatic but that when the murder took place the accused was not labouring under such a defect of reason as not to know the nature of the act he was doing or that if he knew of it he did not know it was either wrong or contrary to law.

4. We have been taken through the evidence by the learned counsel for the appellant and see no reason whatsoever to differ from the conclusion of the learned Sessions Judge. The crucial point of time for deciding whether the benefit

of Section 84 should be given or not is the material time when the offence takes place. If at that moment a man is found to be labouring under such a defect of reason as not to know the nature of the act he was doing or that even if he knew of it he did not know it was either wrong or contrary to law, then we must apply Section 84. In coming to that conclusion, no doubt, we have to take into consideration the relevant circumstances like the behaviour of the accused before the commission of the offence and the behaviour of the accused after the commission of the offence. The learned Sessions Judge has applied all these tests and has come to the aforesaid conclusion; and the details set out above show that the accused knew full well that he was murdering his mother and that what he had done was a grave offence which was both wrong and contrary to law.

5. In this connection, the non-exhibition of feelings and the absence of secrecy on the part of the accused are stated to be strong indications of his insanity at that time. But we have got to remember that these are only some of the relevant circumstances which have to be considered along with, the other circumstances of the case and that by themselves they do not make out sanity or insanity. One may be a hardened criminal and not exhibit any signs of feeling at what he had done, while another may easily break down. In that case as a matter of fact the accused was red with anger as one witness puts it. Then, some may consider secrecy as essential for covering up their crimes, while in others the criminal might despair that what he had done could not be covered up and make no attempt at secrecy. The murder in this case resulted from a moment's anger and the accused was literally caught red-handed and no possibility of secrecy arises here.

6. In these circumstances, we are of opinion that the learned Sessions Judge has rightly refused to apply 8. 84, I.P.C., to this case and he has awarded the lesser of the two sentences prescribed by law. Therefore we affirm the conviction as well as the sentence.

7. In the last paragraph of his judgment the learned Sessions Judge has stated that in his opinion the State Government might consider whether Section 10(a) of the Borstal Act should not be applied to this case. We do not wish to express an opinion because we consider that the decision in 'Chelliah v. The King', 1949 Mad

W N Cr. 58 following an earlier decision in the 'Public Prosecutor v. Nagappa Pujari', 1949 Mad W N Cr 6 in both of which still earlier decisions to the contrary have not been adverted to or considered, requires reconsideration. Therefore we do not wish to endorse the expression of opinion by the learned Sessions Judge.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com