

In Re: Panchanatham Pillai

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Court : Chennai

Decided On : Jan-16-1929

Reported in : 121Ind.Cas.157; (1929)56MLJ628

Appellant : In Re: Panchanatham Pillai

Judgement :

1. The appellant has been convicted of the murder of his daughter, with whom he is alleged to have been on bad terms. They were living together in the French portion of a village which is partly in French and partly in British territory. The appellant, it is said, went away with his daughter on 15th or 16th July, 1926, and returned the next day alone. On 18th P.W. 1 complained to the French police that the appellant had murdered his daughter and at about the same time the appellant reported her disappearance. The appellant was arrested and at once made a confession to a police officer, who has since been dismissed for torturing prisoners in order to extract confessions from them. After this the appellant was placed before the Juge d' Instruction, to whom he made a statement (Ex. J-I) that his daughter was tired of life and that he assisted her to commit suicide. Though it was by then obvious that the murder...if it was a murder...was committed in British territories, a French Sub-Inspector, accompanied by a British Constable took the appellant to the river where his daughter had been drowned. The body was not found at the place indicated by the appellant. On the next day it was found a considerable distance away on information furnished by a shepherd boy. That death was not due to natural causes is clear. For the hands had been tied together

and the cloth weighted with bricks. At the same time, there was nothing to show that the woman had been stunned or that there had been a struggle between her and her father before her hands were tied and her cloth was filled with bricks. The Juge d' Instruction, who is a sort of committing Magistrate, with power to commit or discharge a prisoner, but not to convict, continued his enquiries till January, 1927, when he sent the appellant up to the Chambre des Mises on accusation at Pondicherry. The Court in April held that it had no jurisdiction as the crime had been committed in British territory and the appellant was a British subject. What happened after that is not clear, but it was not till October, 1928, that the appellant was tried by the Sessions Judge of East Tanjore.

2. A great part of the exhibits consists of the record of the French investigation, of statements made by witnesses and of admissions extracted from the appellant, Mr. Ganapathi concedes that most of it is inadmissible in evidence. He, however, excepts E. J-I, the statement made by the appellant to the Juge d' Instruction, which appears to us to be admissible under Section 26 of the Evidence Act. The appellant was, no doubt, in police custody at the time, but he was in the immediate presence of a judicial officer and if that officer is a Magistrate within the meaning of Section 26, the statement is admissible provided, of course, that there is no other legal objection to its validity. We are clear that the Juge d' Instruction is a Magistrate within the meaning of the section. The definition of Magistrate in the General Clauses Act is not confined to Magistrates exercising jurisdiction under the Criminal Procedure Code; it merely includes them. As pointed out in *Queen-Empress v. Nagla Kala* I.L.R.(1896) 22 Bom. 235 it can scarcely have been the intention of the Legislature to exclude from the consideration of our Court's confessions made by prisoners in police custody to Magistrates in England or in a foreign country. We therefore hold that Ex. J-I is admissible in evidence.