

In Re: Meerasa Rowther

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SooperKanoon Citation : sooperkanoon.com/792749

Court : Chennai

Decided On : Mar-16-1948

Reported in : 1949CriLJ76; (1948)2MLJ162

Appellant : In Re: Meerasa Rowther

Judgement :

Govindarajachari, J.

1. This is an unfortunate case. The appellant has been convicted of the murder of his only child, Pakkiri Meeral, aged 5 by stabbing it in the abdomen with a knife and has been sentenced to transportation for life.

2. The prosecution case may be shortly stated. The appellant was married to P. W. 6 ten years ago. Their married life was none too happy. There were frequent quarrels, the last being about 20 days prior to the murder. As a consequence of this quarrel, P.W. 6 went away to the house of her brothers, which is very near to the appellant's house. The child, Pakkiri Meeral, was spending part of its time in the appellant's house and part of its time in the house of her maternal uncles. On the 17th of September, 1947, at about 8 a.m. the appellant went to the house of his brothers-in-law and asked that his wife should be sent to his house. The brothers-in-law suggested a panchayat. P.W. 6 who was inside the house heard this conversation and shouted out that she would not, under any circumstances, go back to the appellant. The appellant immediately whipped out a knife and

stabbed the child who had gone with him from his house to the house of his brothers-in-law. According to the medical evidence and the post mortem certificates--Ex. P-1--the child had two injuries, one a necessarily fatal injury on the abdomen and the other an incised injury one inch by half inch by half inch deep above the right iliac crest over the back. According to the doctor, P.W. 1, this last injury could not in any way have contributed to the death of the child. The injury on the abdomen was a very serious one. The abdominal cavity was penetrated to a depth of an inch and a half. The attack is spoken to by P.Ws. 4 and 5, two brothers-in-law of the appellant, and P.W. 7 his brother-in-law. P.W. 6 speaks to quarrels between her and her husband and how when she heard her husband asking her brothers to send her back to him she cried out from within the house that she had had enough of him and that she would never again live with him. Immediately thereafter she heard another cry out that the appellant was stabbing the child. She opened the door and came out of the house and found P.W. 5, her brother wresting a knife from the hands of the appellant.

3. The appellant's case has throughout been that the child was injured in an accident. In his statement in the Committing Magistrate's Court the appellant stated that the child hit on a corrugated iron sheet in the lane adjacent to the house of his brothers-in-law and it fell on his hand. He was there cutting out some cocoanut kernel for the child. When the child fell on his hand the knife in his hand got pierced in the child's abdomen. Though the appellant put forward this case even in the Court of the Committing Magistrate it is somewhat significant that his brother, P.W. 8, to whom the appellant rushed up with his child in his arms shortly after it was stabbed did not say in the course of his deposition in the Committing Magistrate's Court that the appellant mentioned to him that the injury was the result of an accident. P.W. 8 was cross-examined in the Sessions Court and could not explain why he did not say in the Court of the Committing Magistrate that the accused told him that the child had fallen on a knife. The witnesses for the prosecution are frank enough to state that they did not know how the child came to sustain the injury in the back. It is likely that that injury was sustained in consequence of the body of the child coming into contact with the corrugated iron sheet which admittedly was standing on the ground close to the house of P.Ws. 4, 5 and 7. It is possible that the injury on the back was received when the child fell

back after it was stabbed by the appellant. It seems to us that this theory of accident is an after-thought and that it is merely an attempt to utilise the injury which the child undoubtedly sustained in the back for the purpose of supporting a theory which is not true. We have anxiously considered the entire evidence in the case and we see no reason to doubt that the injury on the abdomen was not the result of any accident and that the appellant stabbed the child in the manner deposed to by P.Ws. 4, 5 and 7.

4. It is true that almost every one of the prosecution witnesses says that the appellant was fond of the child and that even when he was quarrelling with his wife he never injured the child previously. The prosecution evidence also discloses that the appellant immediately after stabbing the child regretted having done so but there is, in our opinion, no reason to doubt the testimony of P. Ws. 4, 5 and 7. The conviction of the appellant for murder must therefore be confirmed.

5. The learned Sessions Judge has sentenced the appellant to transportation for life and he has also made a recommendation to the Government under Section 401 of the Criminal Procedure Code and Rule 259 of the Criminal Rules of Practice and Orders, Part I, for exercising its prerogative of mercy. The learned Sessions Judge says that the minimum punishment prescribed by law, namely, transportation for life, is, in his opinion, more rigorous than the circumstances of the case warrant. We regret we are unable to support this recommendation. That the appellant murdered his own child to whom he was evidently attached is, in our opinion, no extenuating circumstance whatever. On the other hand, the murder of an innocent child should be regarded as something graver even than the attack on a person against whom the accused had some spite. The appellant showed his remorse immediately after he stabbed the child; he is stated to have wept aloud and carried the child in his arms to his own house. This too, in our opinion, is no extenuating circumstance at all. The appeal is dismissed.