**Uggappa Pujari Vs. Emperor**

**Uggappa Pujari Vs. Emperor**

**SooperKanoon Citation** : sooperkanoon.com/793699

**Court** : Chennai

**Decided On :** Jan-29-1929

**Reported in** : AIR1929Mad498

**Appellant** : Uggappa Pujari

**Respondent** : Emperor

**Judgement** :

**Waller, J.**

1. Appellant 1 (Pammu, accused 1) has been convicted of the murder of one Rosario Minezes. The 2nd (Uggappa Pujari-Accused 2) has been convicted of having helped her to dispose of the body. The Public Prosecutor has appealed against his acquittal on the charge of murder.

2. The case against appellant 1 is, we think, clear enough quite apart from the admissions that are attributed to her. She and Rosario had been on terms of intimacy but had fallen out shortly before the murder and she had been heard to threaten to kill him. It is proved that, on the night of the murder he was seen entering her house and was never, after that, seen alive and human blood was found in and near her house. She gave up to the police a pole and rope which had apparently been used for transporting the dead body to the place where it was found, and they also were stained with human blood. In addition she is said to have made a full confession to P.W. 10 implicating herself and appellant 2 in the

murder. On this we do not propose to rely as it seems to us not unlikely that P.W. 10 knows a great deal more about the affair than he will admit. There is, further, the statement she made to the Committing Magistrate in which she admitted having killed Rosario but added that it was P.W. 10 and not appellant 2 that helped her to dispose of the dead body. As P.W. 10 himself admits that he was sent for by her and asked to help, it is more than possible that there was a good deal of truth in what she told the Committing Magistrate. On the whole, we think that she was rightly convicted.

3. As regards appellant 2 we are unable to understand the process of reasoning by which the Sessions Judge arrived at the conclusion that, though there was enough circumstantial corroboration of appellant's alleged confession to P.W. 10 to justify him in convicting appellant 2 under Section 201, I. P C. there was not enough to support the charge of murder against him. Obviously, if it was enough to justify a conviction for the one offence, it was equally adequate to support a conviction for the other. As regards the nature of the corroboration requisite to support the confession of one co-accused implicating himself and another, the Sessions Judge followed the opinion expressed by Jackson, J. in Empress v. Ashutosh Chuckerbutty [1879] 4 Cal. 483 that an accused person ought not to be convicted

on the ground of such confession corroborated by circumstantial evidence unless the circumstances constituting corroboration would, if believed to exist, themselves support a conviction.

4. In other words, Section 30, Evidence Act, cannot be used except in cases where the use of it is entirely superfluous. With great respect, it seems to us that much of the law laid down by Courts in India in regard to that section is coloured by the dislike felt by English lawyers for any provision in an Indian Statute that departs from the law of England. That dislike was plainly expressed by the learned Chief Justice of this Court in Lilaram Gangammal. In re A.I.R. 1924 Mad. 805 where he described Section 30 as a

needless tampering with the wholesome rule of the English law.

5. The Indian Statute does depart from the English rule on the subject and we see no reason why its effect should be whittled down till the two are indistinguishable. If it were necessary for us to decide the point, we should follow the opinion of Garth, C.J., in the Calcutta case above referred to, that the question of what corroborative evidence is sufficient, with the confession, to support a conviction must depend on the circumstances of each particular case.

6. The Sessions Judge was, of course, not justified in his finding that there was nothing against appellant 2 but the confession of his co-accused. There was a great deal more in the evidence of P.W. 10 than that. Believing the evidence as he did, the Session Judge might well have convicted appellant 2 of murder on it. What P.W. 10 said was this:

(A) At the dead of night appellant 2 came to his house, told him that he first wanted some medicine and took him to her house. There he found Rosario lying dead.

(B) Appellant 1 told him that she and appellant 2 had committed the murder and asked him to help them in disposing of the body. He refused, whereupon they both fell on their knees and implored him not to tell anyone their secret.

7. The first part of this story, if true, was absolutely damning against appellant 2. Rosario was a man of exceptional physique. Appellant 1 could not have killed him unaided and appellant 2 must have helped her. Why had he gone to her house, unless it was for that purpose? The second part proves that appellant 2 stood by and accepted the truth of the woman's confession and his conduct in joining in the request for secrecy was tantamount to an admission of his share in the murder. So that, if we accepted P.W. 10's evidence, we should be prepared to hold not only that appellant 2 had confessed, but that there was corroboration of his confession to be found in his presence at the house of appellant 1 immediately after the murder, which she could not have committed single handed. We consider, however, that it would be extremely unsafe to rely on his evidence. He had been drinking with Rosario that night. Appellant 1 spent the rest of the night in his house. He was asked by the appellants to help them to get rid of the body and probably did so. Rosario was a very tall man-6 feet 3 inches, and of robust

physique and we doubt whether the appellants, a woman and a man, could have carried the body a considerable distance unaided. All these circumstances raise a very strong suspicion that the witness was privy to more than the disposal of the body, Indeed, he and not appellant 2 was named as one of the suspects in the patail's report, along with appellant 1 and another man.

8. If the evidence of P.W. 10 be rejected, there is nothing against appellant 2 but his alleged producing of a silver belt belonging to the deceased. As to that it is not apparent why the belt should have been removed from the body. It was not for the purpose of theft, and could not have been in order to defeat identification, for the body was certain to be found the next day. We confirm the conviction and sentence passed on appellant 1. We allow the appeal of the second, set aside conviction and sentence and direct his release. The appeal of the Public Prosecutor is dismissed.