

In Re: Manickam

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Court : Chennai

Decided On : Mar-02-1950

Reported in : AIR1950Mad576

Judge : Govinda Menon ; and Krishnaswami Nayudu, JJ.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 84 and 302

Appeal No. : Referred Trial No. 131 of 1949 and Criminal Appeal No. 23 of 1950

Appellant : In Re: Manickam

Advocate for Def. : Government Prosecutor for Public Prosecutor

Judgement :

Govinda Menon, J.

1. The conviction of the accused rests upon the testimony of P. Ws. 1, 2 and 9 all of whom say that the accused cut the neck of the deceased with an aruval in his hand. The deceased who was living with P. W 1 had lost a cook belonging to her on 1st August 1949, The next morning while she and P. W. 1 were searching for the bird the deceased was muttering curses on the unknown thief and while they were proceeding in front of the accused's house the accused thinking that the curses were levelled against him came out and catching hold of the tuft of the deceased cut her neck twice or thrice and thereby killed her. Afterwards the

accused went to the backside of his own house, washed the aruval, came and sat in the front pial with the aruval by his side. Information was given, to the Village Munsif who came to the place but was too timid to approach the accused or arrest him. The police officers arrived late in the day and after cajoling the accused were able to arrest him and recover the weapon. The fact that the accused cut the deceased's neck is spoken to not only by P. W. 1 bat, as we have said, by P. Ws. 2 and 8 who are neighbours of the accused. Nothing has been alleged as to why we should not accept the testimony of these witnesses. P. W. 4 saw the accused washing the blood stained aruval with water on the backside of the house and resuming his seat on the front pial. We have no hesitation in agreeing with the Sessions Judge that the accused cut the neck of the deceased as a result of which she died.

2. The defence is that the accused was tin-hinged in mind and unbalanced in his actions and therefore must be taken to have been insane at the time he committed the deed. In other words, the learned counsel contends that the provisions of Section 84, Penal Code, should be applied to him. If Section 84, Penal Code, has to be applied, the accused must be shown to have, by reason of unsoundness of mind, been incapable of knowing the nature of the act or that he was doing anything wrong. P. W. 8 and P. W. 9 are two doctors, one being the Assistant District Medical Officer of the Salem Headquarters hospital and the other, a Medical Officer at Krishnagiri. Both of them had kept the accused under observation and were of opinion that during the time they had opportunities for observing his mental conditions were normal but they are of opinion that it is difficult to find out the nature of the mental insanity subsequent to certain epileptic fits. The Village Munsif P. W. 6 deposed that the accused was in the habit of going about the village muttering 'Kali, Kali,' that he was not quite a normal man but a bit unbalanced in mind, that he had certain obsessions regarding Kali worship and that the accused was stating that the Kali temple in the village ought to be electrified. All the witnesses who knew him were unanimous in thinking that the accused had a certain kind of religious fervour for Kali and was not what a normal man used to be. On behalf of the accused, D.W. 1 was examined. He is a homeopathic doctor who had examined the accused some time before for epileptic fits and mental excitability. During that period the accused was excited and

frequently calling out 'Kali.' The accused seemed to be mentally upset because of various reasons. That doctor was of opinion that though the accused was mentally unbalanced and excited he was not insane. We entirely agree with D. W. 1 regarding the description of the mental faculties of the accused. He was not insane and therefore Section 84 cannot be invoked but he was unbalanced and excited and probably was in some kind of obsession or hallucination. In such circumstances it cannot be said that he did not know that when he cut the throat of the deceased he was doing a wrong act; and it cannot be said that he did not know the nature of the act. In order to attract Section 84, Penal Code, it must be shown that the person who perpetrates the deed did not know what he was doing. That is, if a man Commits homicide he must be under the impression that he was not taking the life of the man but probably cutting an inanimate object or something like that, or it should be shown that in doing the act he did not know that he was doing a wrong thing. The conduct of the accused subsequent to cutting the woman shows that he knew that he was doing wrong, that he knew the nature of the act and that must be the reason why he washed the blood from the aruval and came and sat on his pial. The circumstance that the Village Munsif and others were afraid to approach him in that state of mind shows that to the outsiders also the accused seemed to be in a rather bellicose mood. In such circumstances, it cannot be said that the provisions of Section 84 can be invoked. But considering the fact that he was unbalanced and excited and had some obsession regarding the worship of Kali, we feel that he was not in normal mind. There fore the extreme penalty of law is not necessary in such circumstances of the case. While, there, fore, confirming the conviction under Section 302, Penal Code, we reduce the sentence to one for transportation for life.

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