

**In Re: Boya Polamma**

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**Court :** Chennai

**Decided On :** Oct-25-1940

**Reported in :** AIR1941Mad225; (1941)1MLJ20

**Appellant :** In Re: Boya Polamma

**Judgement :**

**Horwill, J.**

1. Boya Polamma has been convicted by the Sessions Judge of Kurnool of the offence of murder, punishable under Section 302, Indian Penal Code, but as the Judge felt towards the end of the trial that she was unable to understand the proceedings, he has referred this case to us under Section 341, Criminal Procedure Code. It has since been reported that there is no likelihood of her hearing improving.

2. There is no doubt in our minds that the learned Sessions Judge was right in convicting Boya Polamma of the offence with which she was charged. The prosecution story is that Boya Polamma was married to P. W. 8 and that just before this murder took place P. W. 8 took her and her children away to another village, and that he there renewed his intimacy with one Lakshmi, whom he was keeping as his concubine before he married Boya Polamma. She seems to have quarrelled with her husband for having resumed his relationship with Lakshmi in spite of his assurance that he would give up Lakshmi, and she came back with two

of her children to the deceased Subbamma, who was her aunt. It was Subbamma who had arranged her marriage with P. W. 8 and it was apparently to her that the accused looked for comfort and sympathy. Subbamma, however, seems not to have given her the sympathy she expected and even refused to give her food; and the consequence, according to the prosecution, was that Boya Polamma murdered Subbamma by smashing her head with a large stone.

3. Only one witness (P. W. 5) claimed to have witnessed the murder, and her evidence has been rejected by the learned Sessions Judge. Apart from her evidence, however, there is very strong evidence against Boya Polamma. The most important of all is the confession (Ex. C) made to the Sub-Magistrate (P. W. 3). In the course of that statement she said:

In the night I begged food and I slept at the house of Subbamma only. Being unable to put up with my misery and hardship I picked up a slab of stone and threw it on the head of Subbamma.

4. She also told the Magistrate about the jewels which she had taken from the body of Subbamma. In addition to this statement, there is reliable evidence that Boya Polamma took the police and certain panchayatdars to a rat hole in Subbamma's house and from it took but some jewels which undoubtedly were worn by Subbamma just prior to her death. The further evidence against Subbamma is that of P. Ws. 4 and 6. P. W. 5 is a daughter of Boya Polamma and P. W. 4 and P. W. 6 say that they saw Boya Polamma going away from Subbamma's house in the night with P. W. 5. On account of information about this offence, Boya Polamma was detained by P. W. 4 and handed over to the Village Munsif. From all this evidence we are satisfied beyond reasonable doubt that Boya Polamma was rightly convicted of the offence with which she was charged.

5. Her answers to the questions put to her by the Judge show that she understood the nature of the proceedings even in the Sessions Court. The learned Judge first asked her if she heard her statement in the committing Court, which had just been read out to her, and she replied that it was correct. She was then asked if she wished to say anything in answer to the prosecution evidence and she replied:

My husband took away Rs. 5 from me. When I asked him for it, he and his concubine murdered Subbamma and foisted this case on me. I know nothing.

6. It was only after the accused was asked 'P. W. 4 says he saw you the night Subbamma died. Do you wish to say anything?' that Polamma pleaded that she was unable to hear anything. The Judge thereupon desisted from asking her further questions. As is seen, she must have understood the proceedings up to then. She was represented by a vakil appointed by the Crown and she put forward the defence that this case was foisted on her. We are satisfied that no injustice has resulted from the fact that the Sessions Judge felt himself unable to question her further with regard to the evidence appearing, against her. The magisterial confession, which was recorded after all the ordinary precautions had been taken, and the fact that she herself produced the jewels which were on the dead woman's body, satisfy us that there could have been no miscarriage of justice.

7. We therefore confirm the conviction by the learned Sessions Judge and under Section 341, Criminal Procedure Code, sentence Boya Polamma to transportation for life.

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