

Syed Batcha Sahib Vs. Emperor

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Court : Chennai

Decided On : Feb-12-1913

Reported in : 18Ind.Cas.675

Judge : Ralph Benson and ;Sundara Aiyar, JJ.

Appellant : Syed Batcha Sahib

Respondent : Emperor

Judgement :

1. We have no doubt but that the Sessions Judge is right in finding that the appellant, Syed Batcha Saheb, is guilty of having killed his wife, Kader Bibi, on the night of the 11th June last.
2. But we do not accept his finding that the offence did not amount to murder, but amounted only to culpable homicide punishable under Section 304, Indian Penal Code.
3. The evidence shows that the appellant was drunk and wished his wife to leave at night and go with him to Erode and that she was unwilling to go at night but said she would think about it in the morning, and that the appellant, angered by this refusal, struck her in the chest with a pen-knife, the wound having gone 2 1/2 inches deep and penetrating the pericardium so that she bled profusely and died in a very short time from shock and hemorrhage. The appellant pleaded alibi in the Courts below but made no attempt to prove it. In his appeal to this Court, he, for

the first time, pleads that the woman was murdered by her brothers owing to disputes about property, but there is no evidence to support the plea. We agree with the Sessions Judge that the prosecution evidence proves that it was the appellant who killed the woman.

4. We are, however, quite unable to agree with the Sessions Judge that the refusal of the woman to agree to her drunken husband's unreasonable request to set out for Erode or her former residence on that night was provocation of so grave and sudden a character as to render his offence less than murder. She was not guilty of abusive language or violence of any kind, but in the most reasonable way pleaded for delay until the morning. We must also notice that the Sessions Judge misunderstands the law with regard to intention. He says that the appellant 'must be taken to have known that a furious stab with a pen-knife on the region of the chest in such a way as to produce the wound proved in this case was likely to produce fatal result. Though he must be taken to have known that the stabbing was likely to cause death, I do not think he had the intention to cause the death of his wife. There was no sufficient motive for him to think of murdering his wife.'

5. The Sessions Judge has, we think, fallen into the not uncommon error of confusing wish and motive with intention. In law, a man is held to intend the ordinary and natural consequences of his acts, and when managing a stab of this kind which is sufficient in the ordinary course of nature to cause death, the presumption is that he intended to cause death and it lies on the offender to show that such was not his intention.

6. We, therefore, dismiss the appeal and alter the finding to one of murder punishable under Section 302, Indian Penal Code, and, as a Court of revision, we enhance the sentence to transportation for life. We do not think that the ends of justice require us to impose the extreme penalty in this case as the act, was done without pre-meditation and under the influence of liquor.