

**In Re: Muniyan**

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**SooperKanoon Citation :** [sooperkanoon.com/804207](http://sooperkanoon.com/804207)

**Court :** Chennai

**Decided On :** Jan-06-1926

**Reported in :** AIR1927Mad243

**Appellant :** In Re: Muniyan

**Judgement :**

1. The appellant was charged with the offences of robbery and murder. The Sessions Judge tried both the charges together, the first with a jury, and the second with jurors sitting as assessors. In doing so, he overlooked Rule 238 of the Criminal Rules of Practice, which lays down that in a case of this nature, the charges should be tried separately.

2. On the charge of robbery, the jurors found that an offence under Section 404, Indian Penal Code, had been committed. The evidence was that, shortly after the murder, the murdered girl's jewellery was discovered in the possession of the appellant. The Judge told the jury that, if it had been removed from her person after her death, the offence committed was one under Section 404, Indian Penal Code. That was not a proper direction. The question for consideration was whether the murder had been committed for the purpose of stealing the jewels. If it had been committed for that purpose, the offence was one under Section 392, Indian Penal Code. It is clear that the jury was misdirected. We must set aside the conviction. As, however, we are confirming the conviction under Section 392, Indian Penal Code, it is unnecessary to order a re-trial on the charge of robbery.

3. On the other charge the assessors unanimously found the appellant guilty. That Rakki was murdered on the morning of 26th March 1926 is quite clear. She left her house to go out to work in the morning and several hours later her dead body was discovered by P. W. No. 11. On it were ten incised wounds. The evidence connecting the appellant with the murder comes from P. Ws. Nos. 13, 14 and 15. P. W. No. 13 saw the girl near the scene of the murder and talked to her. Shortly afterwards he met the appellant, who was carrying an aruval, going in that direction. P. W. No. 14 saw the appellant and the girl together on the bund. P. W. No. 15, a little later saw the appellant and the girl struggling together. He ran there, met the appellant, who was covered with blood, and conversed with him. After the appellant had gone, he went and looked at the girl's body. If the evidence of these witnesses is believed, there can be no question as to the guilt of the appellant.

4. The one criticism that can be made against them is that their evidence was not forthcoming for several days, but we see no reason to disbelieve them on that account. They seem to be perfectly disinterested persons who have no motive whatever to perjure themselves against the appellant. Their evidence was accepted by the assessors and by the Sessions Judge, and we can find no adequate ground for rejecting it. Apart from that, there is the evidence of the Sub-Inspector, and the Village Munsif, that the appellant after his arrest, gave up the murdered girl's jewels, produced a cloth stained with human blood and gave information which led to the discovery of another similarly stained piece of cloth. This evidence, again, there is no reason to disbelieve. The jewels have been satisfactorily identified as those worn by the murdered girl. The Village Munsif and P. W. No. 8 have no motive to get up a false case against the appellant, and their evidence, has, we think, been rightly accepted by the assessors and by the Sessions Judge.

5. In the result, we must confirm the conviction. The appellant has been called upon to show cause why the sentence should not be enhanced. We should not have interfered, had he been sentenced to death, but in view of the time that has elapsed since the trial, we decline to enhance the sentence. The sentence is confirmed and the appeal is dismissed.

