

**In Re: Nallayee**

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**Court :** Chennai

**Decided On :** Jan-31-1961

**Reported in :** 1961CriLJ581

**Judge :** Ramakrishnan, J.

**Appellant :** In Re: Nallayee

**Judgement :**

**Ramakrishnan, J.**

1. In this case the accused, one Nallayee, was committed to take her trial for an offence under Section 307, I.P.C. (attempt to commit murder), before the Court of Sessions, Salem Dn. and she was tried accordingly by the Principal Assistant Sessions Judge, Salem. The typed copy of the charge framed by the Assistant Sessions Judge against her mentions the ingredients of the offence; and, therefore, it should be considered as a proper charge.

The learned Assistant Sessions Judge has noted in the judgment that, when the charge framed against the accused was read over and explained to her in Tamil she pleaded guilty. The Judge then held that the plea was voluntary. He accepted the plea, found her guilty as charged on her own admission, convicted and sentenced her to undergo rigorous imprisonment for seven years.

2. The accused has filed this appeal from jail. She did not make appearance through an advocate within the time allowed to her. In her memo randum of appeal, she says that her husband had two wives, that her husband was addicted to drink, that she did not know as to who inflicted a cut on him during a quarrel that took place while he was drunk, that he gave false evidence against her presumably in the committal court on the advice of his other wife, that the Sub Inspector insisted that she should plead guilty in the court below, stating that if she did so, she would be acquitted, and that, in those circumstances, she admitted the offence out of sheer ignorance and want of knowledge.

3. This appeal has been taken on file, Notice was issued to the Public Prosecutor, or the suggestion of the Judge who took the case on, file, Ramachandra Iyer J. regarding the necessity for issuing directions in regard to the trial of serious crimes - whether the plea of guilty should be allowed to be recorded and the accused convicted and sentenced without knowing even the circumstances, under which the offence was committed. Adequacy of the sentence was also mentioned by Ramachandra Iyer J. as a possible ground for being canvassed in the appeal,

4. Section 271(2) CrI. P.C. states that, if the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon. In other words, the conviction need not necessarily follow the plea of guilty. The court has discretion to, accept the plea or proceed to take evidence notwithstanding the plea. Prior decisions have held that} the Court will be exercising a wise discretion in not accepting the plea of the accused, and in proceeding with the recording of evidence, in a case where the natural consequence (of such acceptance) would be a sentence of death.

It has been the general practice for the Sessions courts not to accept the plea of guilty in capital cases. But the question that arises in this particular case where the charge is not a capital charge is somewhat different. The offence of murder is a technical one, in the sense that every killing is not murder. The necessary intention or knowledge has to be proved to have existed before the offence of killing can be designated as an offence of murder.

While the ingredients for the offence of murder mentioned in the section, of the Indian Penal Code are stated more or less in formal terms, it will require somewhat more detailed explanation than what would be given in a mechanical reading of the charge before it could be held that the accused understood all the implications of the offence when he pleaded guilty. In this respect, the ingredients of an offence of attempt to murder closely follow the ingredients of the offence of murder.

It is not possible to lay down, any rule that in a case of serious offences like attempt to murder (whose ingredients are set down in somewhat technical language in the Code) it will not be a safe practice to accept the plea of guilty for the purpose of sustaining conviction. But in such cases, the necessity can be pointed out, for the court to explain to the accused as fully as possible the technical ingredients of the offence and fully satisfy itself that the accused has understood them before the plea of guilty is accepted and a conviction is based thereon.

Where, after such detailed explanation, the accused still has chosen to admit the offence & plead guilty, there may not be any legal ground to hold the conviction based on such plea to be illegal or unjustified. While the conviction on a plea of guilty may considerably abridge the trial, that should not be a reason for the courts to refrain from taking evidence, if it feels any doubt that the accused did not understand the full implication of the offence mentioned in the charge, before pleading guilty.

5. In the present case, however, the accused has not contended that she was not in a position to know the implications of the charge against her. Her contention was that she was persuaded to plead guilty by the Sub Inspector of Police who told her that, if she so pleaded she would be acquitted. I do not find any basis, on which I can accept this statement, as true.

6. In view of the statement of the court below, that it has fully read over and explained the charge to the accused and was satisfied that her plea was voluntary, this Court acting under S.412, CrI. P.C. can only consider the extent or legality of the sentence. The appellant, as the first wife of her husband, had a great deal to put up with her husband's second wife, and under those circumstances, she seems to

have inflicted the injuries on her husband which were no doubt on a vulnerable part of the body. After hearing the learned Public Prosecutor, I am of opinion that it will suffice to meet the ends of justice, if the sentence on the accused is reduced to a period of four years III. With the above modification, the appeal is dismissed.

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