

**In Re: Ramayee**

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**Court :** Chennai

**Decided On :** Sep-21-1959

**Reported in :** 1960CriLJ491

**Judge :** Ramaswami and; Anantanarayanan, JJ.

**Appellant :** In Re: Ramayee

**Judgement :**

**Anantanarayanan, J.**

1. This is a reference by the learned Sessions Judge, Tirucliirappalli, in' S.C. No, 36 of 1959 on his file. He has found the first accused before him (Ritmayee) guilty of murder Under Section 302 of the IPC and sentenced her to death The second accused, her lover was acquitted, and there is no appeal from this acquittal by the State before us.

2. The facts are clear and within a brief com-i pass. The case depends for its proof, as far as AI is concerned, upon certain circumstantial pieces of testimony which we shall refer to in detail later and upon two extra-judicial confessions said to have been made by AI upon the very morning of the occurrence to two witnesses, namely, P.W. 1 arid P.W. 8.

(After stating the facts His Lordship proceeds).

3. Beyond a bare denial of the facts of evidence, the first accused has not attempted any other defence. She merely stated that the witnesses were deposing falsely, owing to several very minor disputes; that she did not see P.W. 1 and P.W. 8; and that she made no extra-judicial confession to them.

4. In the present case, the proof of guilt as far as A. 1 is concerned, depends upon the pieces of circumstantial evidence that we have earlier referred to; and the two extra-judicial confessions made by her to P.Ws. 1 and 8 respectively. The motive is abundantly established in the sense that the married life of A1 and the deceased was very unhappy, and that A1 was also carrying on illicit intimacy with A2, which the deceased bitterly resented. It further appears to be clear that A2 actually attempted to cause serious injuries to the deceased upon a prior occasion, and he was released on bail in the Criminal Appeal connected therewith, at the time when this offence occurred.

Whatever might have been the part played by A2 with regard to this murder, he has been acquitted; and we have no grounds in law for presuming that he was also present in the house that night. The only inmates, therefore, must have been A1 herself and the deceased, her husband, for, it is not claimed that there was any other person living in that house. The circumstantial evidence clearly proves that there was some incident in the western room that night between A1 and the deceased; that sounds of pots being broken were heard; and that the groaning of the deceased was also heard. The koduval. M.O. U was apparently in the room; and A1, being the far younger and probably stronger person, seems to have obtained possession of this koduval. and to have inflicted injuries on her husband.

Further, the conduct of A1, her confession of a quarrel that night when questioned; her attempts to explain that her husband had gone away to a neighbouring village, which was false; and above all, her extra-judicial confessions, clearly establish her guilt with regard to the murderous assault. It is not the law that extra-judicial confessions cannot be accepted and acted upon, or that they are to be classed under some inferior category of admissions or confessions. Where, as in this case, they were made voluntarily by the accused immediately after the crime, to strangers visiting her, with every token of truthfulness and repentance (even if

momentary), the Court would be definitely' justified in accepting and acting upon such confessional statements.

We must stress that AI made this extra-judicial confession apparently feeling weary of life, and when she was totally disinclined to hide the facts or to cover her guilt. We must, therefore, consider that the circumstantial evidence and the extra-judicial confessions taken together even if the confessions are now retracted, are worthy of acceptance, and sufficient to establish AI as the person who inflicted the injuries on her husband with the koduval, M.O. 1.

5. But it is needless to say that an extra-judicial confession must be accepted and acted upon, as a whole. It is not permissible to the court acting upon this evidence, to do so only with regard to a part of the confession, and to reject some part of it, because the accused may not be able to offer further proof. In the present case, it is very important to note that there were a few simple injuries on the person of the first accused also, as spoken to by P.W. 12, There were four abrasions; three of them were on the right hand, and the fourth on the left fore-arm. The learned Public Prosecutor claims that these injuries must have been sustained by AI accidentally, while she was inflicting cuts with the koduval (M.O. 1) on the person of the deceased.

We do not see why this should be the only conclusion possible upon these facts. On the contrary, the existence of these injuries does throw a flood of light upon the statement of AI to P.W. 1 when she began her extra-judicial confession, namely, 'Look at my hands. Last night your elder brother, (deceased) attempted to finish me off with the koduval.' This portion of her confession has to be necessarily accepted by the Court, if the Court is to accept her confessions at all. It is also perfectly probable and in accordance with the facts as far as we know them.

It is very likely that there was a quarrel between the husband and wife that night, in the western room; and that the deceased attempted to perpetrate some violence upon AI. That might well have related to the conduct of AI in continuing the illicit intimacy with A2, or with regard to some other matter, for, the cause of the altercation is not material The1 point is that the deceased would appear to have initially attempted violence on AI; and it is very likely that she sustained some

injuries, while the deceased and she were struggling for the possession of the koduval, (M.O. 1).

6. Even if AI did possess some rights of private defence, as her extra-judicial confession indicates, it is very clear that she grossly exceeded those rights in seizing possession of the koduval, and in inflicting multiple incised wounds on the victim, several of which were grievous, and two of which were likely to cause immediate death. Consequently, we are of the opinion that the offence committed by AI is not murder, but that it properly falls within the offence defined Under Section 299, IPC and punishable Under Section 304, IPC, second part.

7. We accordingly modify the conviction of AI' to a conviction Under Section 304, IPC second part and sentence her, taking all the circumstances into account, to rigorous imprisonment for three years.

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