Pachudayan Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/805791

Court : Chennai

Decided On : Jan-03-1911

Reported in : 9Ind.Cas.730a

Judge : Ayling and ;Abdur Rahim, JJ.

Appellant : Pachudayan

Respondent : Emperor

Judgement :

1. The case, as found by the Sessions Judge to have been proved against the prisoner whom he has convicted under Section 302, is summed up in paragraph 9 of his judgment. We think there can be no doubt that the deceased, Mary Goundan, was murdered sometime on the night of 28th September. His body was found in a well not far from the shed where he had been sleeping that night. The body bore several abrasions and some incised injuries and there were marks also on the neck. It appears that the accused had an intrigue with the daughter of the deceased and that the latter on that account kept her away from the village. The accused apparently wanted her back but the deceased would not let her return to the village. This might furnish a motive for accused wishing to do away with Mary Goundan, and the question is, is it proved that the prisoner was in fact concerned in the murder? There is the evidence of the widow of the deceased and his son that the accused was seen at about midnight outside the deceased's house, which is about 300 yards from the shed where the deceased was sleeping. But the

accused must have known where the deceased was sleeping, and there was no reason why he should go to the house of the deceased, when he knew that the deceased would be in the shed. There is also the evidence of the 2nd and 3rd prosecution witnesses to the effect that the prisoner had asked them to help him in doing away with the deceased. But it is difficult to rely upon that evidence. These witnesses were not examined at the inquest and it is not explained why this evidence was not available at the earliest opportunity. The evidence of the partner of the deceased the 5th prosecution witness, that he had been asked by the accused to go to a singing party so that he might not sleep in the same shed with the deceased that night, is also open to considerable suspicion. It does not appear why this man should have slept in the place where he says he did if he was to go to the village and he did not mention the invitation of the accused at the time of the inquest. There is also evidence of three witnesses who want to make out that they saw the prisoner drop something into the well. But the Judge has rightly discredited this evidence There is no other evidence to connect the prisoner with the crime and we, therefore, set aside his conviction and sentence and order that he may be immediately released.

2. We may observe that the learned Public Prosecutor has drawn our attention to the very unsatisfactory nature of the post mortem certificate. It does not appear from that document or from the evidence of the Sub-Assistant Surgeon that he dissected the dead body or what internal symptoms he observed on dissection. The post mortem certificate only speaks of external appearances. Considering the important nature of the evidence which is generally supplied by the results of post mortem examination in such cases, we think the result of the observation external and internal should be fully recorded.

3. Our attention has also been drawn to the remark of the learned Sessions Judge that the statements of witnesses examined at inquest should not be recorded verbatim in the report.

4. There is nothing in the Criminal Procedure Code, in our opinion, which prevents, such statements being recorded in full. On the other hand, a verbatim report of such statements may often be of great use to the Court in testing the value of

evidence subsequently given.