

In Re: Nachal

In Re: Nachal

SooperKanoon Citation : sooperkanoon.com/810944

Court : Chennai

Decided On : Mar-19-1941

Reported in : AIR1941Mad746

Appellant : In Re: Nachal

Judgement :

Lakshmana Rao, J.

1. The accused has been convicted under Section 304(2), Penal Code, for causing the death of her father-in-law Irula Mooppan by beating with stones and sentenced to rigorous imprisonment for five years. She appeals against the conviction and the same was taken up by Wadsworth J. on the ground that the offence committed would be voluntarily causing hurt. The accused and Irula Mooppan were not friendly, and Irula Mooppan went to P.W. 5's house on the evening of 23rd September last with some injuries, due to beating with stones. He told P.W. 5 that the injuries were caused by the accused and her daughters aged about ten and eight years, and went to P.W. 7's house for the night. He stated so to P.W. 7 also, and went to P.W. 8's house next morning. He told P.W. 8 that he was held by the tuft by the accused and assaulted with stones by her daughters and left saying that he would report to the Village Munsif. He was found dead at the Pillayar Koil about noon, and death was due to congestion of the brain as the result of beating with stones. These facts are not disputed and the conviction of the accused under Section 304(2), Penal Code, is unsustainable. It is not known who caused the fatal

injury and the deceased told P.W. 8 that the accused was holding him by the tuft. Even otherwise, it is not suggested that there was any common intention to cause death or grievous hurt, and the accused would be guilty only under Section 323, Penal Code. The conviction of the accused is therefore altered to one under Section 323, Penal Code, and considering that she was in remand since 25th September, she is sentenced to rigorous imprisonment for the period undergone.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com