

In Re: Katiri Alias Arunchallem

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SooperKanoon Citation : sooperkanoon.com/816064

Court : Chennai

Decided On : Mar-16-1925

Reported in : AIR1925Mad1069

Appellant : In Re: Katiri Alias Arunchallem

Judgement :

1. The appellant has been convicted of the murder of a young boy and sentenced to transportation for life by the Sessions Judge of North Arcot. The prosecution case is that the appellant and the deceased were very friendly and they used to take their bed together in the house of the appellant. The parents of the deceased objected to the deceased keeping company with the appellant, but notwithstanding their advice the deceased went and took his bed in the house of the appellant on the night in question. About midnight the appellant was found with a wound in his neck and the body of the deceased was in the house with head almost severed from the body. Information was given to the Village Munsif and he and several other persons went to the house of the appellant and the Village Magistrate took statements from various persons including the appellant. The appellant stated to the Village Magistrate that he and the deceased took their bed together that there were some hot words between them, that the deceased went to his house and brought a knife and stabbed him on the neck and that he, therefore, killed him and came away. This is the main evidence in the case.

2. The P.Ws. who were present at the time when the statement was made to the Village Magistrate depose that they heard the appellant make that statement. The

learned Sessions Judge has accepted the evidence of these witnesses and believed the statement of the Village Magistrate that such a confessional statement was made and has convicted the appellant of murder under Section 302, Indian Penal Code. But seeing that the only evidence against the appellant is his confessional statement, we are bound to accept the whole of the confessional statement. No doubt, the appellant pleaded in the lower Court that he did not make such a statement, but it is abundantly clear that he did make such a statement. The question is, if the whole of the confessional statement is believed what is the offence that the appellant is guilty of. He says that the deceased first stabbed him on the neck and that he, therefore, hit him and came away. He seems to plead self-defence. But the injury on the neck of the appellant is nothing serious and according to his own statement he did exceed the right of self-defence and killed the deceased and almost severed his head from the body. We think the offence is one falling under Section 304, Indian Penal Code. We alter the conviction to one under Section 304, Indian Penal Code, and sentence the appellant to ten years' rigorous imprisonment. The learned Sessions Judge's view of the law in para. 21 is wrong. He seems to think that if a person in defending himself exceeds the right of private defence and intends to cause the death of his assailant he must be held to be guilty of murder. That is not so. A person in order to defend himself may kill his adversary provided he has a reasonable apprehension that otherwise he himself would be killed. But if he exceeds the right of self-defence where there is no reasonable apprehension of being killed but only had reasonable apprehension of grievous hurt and in defending himself exceeds his right of private defence and kills the other, he is not guilty of murder but he is only guilty of an offence less than murder. His act will amount to an offence under Section 304, Indian Penal Code.