

In Re: Perumal Naicken

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SooperKanoon Citation : sooperkanoon.com/821873

Court : Chennai

Decided On : Jan-04-1912

Reported in : 13Ind.Cas.817

Judge : Abdur Rahim and ;Sundara Aiyar, JJ.

Appellant : In Re: Perumal Naicken

Judgement :

Sundara Aiyar, J.

1. The facts in this case are quite clear. The accused who suspected his wife of criminal intimacy with another man waylaid her as she was returning¹ with two other women and attacked her with a, clasp knife with a blade five inches long and three-fourths of an inch broad. He inflicted several injuries on his wife--none of which, however, proved fatal--when she ran to the deceased, one of her companions, for protection and clasped her arms round her waist. The deceased begged of the accused not to strike his wife, who thereupon stabbed the deceased with the same knife with which he had attacked his wife. The blow fell on the deceased's back and she fell down and died. There can be no doubt, as found both by Snndara Aiyar, J, and Spencer, J., that the accused intended to kill his wife, and it is equally clear that he did not want to kill the deceased. He struck her because she intervened and tried to prevent him from killing his wife. Did he then want to inflict on her an injury which he knew was likely to cause her death or

which was sufficient in the ordinary course of nature to cause death? No doubt, in such cases the accused's own act, as Spencer, J., points out, is a good index of his intention. The accused must be taken to have intended to cause some injury to the deceased, but I agree with Sundra Aiyar, J., that one would not under the circumstances be justified in presuming that he intended to cause such injury to the deceased as was likely to cause her death or was sufficient in the ordinary course of nature to cause her death. The wound actually inflicted was, no doubt, sufficient, in the ordinary course of nature to cause death, but that, is not enough to bring the case under Section 302, Indian Penal Code. To make it an offence of murder, it must also be shown that the accused intended to inflict such injury. The wound caused was one inch long and half an inch broad, but it penetrated the diaphragm and also the spleen and thus proved fatal. The accused stabbed the deceased in the excitement of the moment, and I do not think it would be safe to assume that he intended to cause her a fatal injury, though he did in fact cause her such injury.

2. I, therefore, confirm the conviction and sentence under Section 307, Indian Penal Code, and alter the conviction under Section 303 into one under Section 304, Indian Penal Code, and sentence him under Section 331, Indian Penal Code, to transportation for life.