

In Re: Sreerangayee

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Court : Chennai

Decided On : Sep-22-1972

Reported in : (1973)1MLJ231

Appellant : In Re: Sreerangayee

Judgement :

V.V. Raghavan, J.

1. The appellant was charged with an offence of murder under Section 302 of the Indian Penal Code, in that she on 9th April, 1971 between 8 and 10 a.m. committed murder of five of her children aged between 11 and 1 1/2 years and lastly with an offence under Section 309 of the Indian Penal Code, in that she at about the same time in the course of the same transaction attempted to commit suicide by jumping into a well belonging to one Maria Pillai in Shanmugha Nagar, Dadagapatti, Salem District.

2. The prosecution case is as follows: P.W. 6 Perumal, the husband of the appellant (accused) married the accused about 14 years ago. They had five children viz.:

(1) Madesh, a boy aged about 11 years,

(2) Pappathi, a girl aged seven years,

(3) Mani, a girl aged six years,

(4) Devan, a boy aged about 4 1/2 years, and

(5) a female child aged about 1 1/2 years (not named). The husband and wife were living with their children in a rented house belonging to Raja Mudaliar in Shanmugha Nagar, Dadagapatti. The husband was earning by stitching gunny bags. He was earning per day Rs. 5 or Rs.

6. He was also having a bullock cart with which he would earn Rs. 6 or Rs. 7 per day. The husband had illicit intimacy with one Paivathi (P.W.

12) and Parvathi used to stay with him in his house at Shanmugha Nagar, Dadagapatti. The accused and P.W. 6 were residing with their children in the house of P.W. 13, Raju Mudaliar on a rent of Rs. 10 per month and P.W. 6 could not even pay the rent in view of poverty. About 20 days prior to the occurrence the accused pledged to P.W. 13 about four household articles like Anda and borrowed Rs. 60 and further borrowings had to be made on pledge of other things for meeting the bare necessities. On the date of occurrence the husband gave Rs. 9 to the accused's son to give it to the carpenter or his brother and left the house for work at 7-30 a.m. The said amount of Rs. 9 was given to the brother. At about 10 or 11 a.m. that day P.W. 1 was talking with one Krishna Asari in Shanmugha Nagar. At that time women were crying that a woman had fallen into the well. P.W. 1 immediately ran to the well, which is at a distance of 300 feet from the house of Krishna Acbari. Similarly P.W. 2, who was living in a house about 400 or 500 yards away from the house of the accused, heard the cry and he also rushed to the well. There were others i.e., P.Ws. 3 and 4, who heard the cry and all of them rushed to the well and P.W. 1 got into the well by holding the pipe inside the well and brought the accused to the surface of the water by holding her tuft and she was pulled out of the well. She was in an unconscious condition. She was taken to her house and placed in front of her house. The accused regained consciousness sometime later and when she was questioned as to why she fell into the well, she said that she had murdered her children by administering poison to them and that the children were inside her house. The house was broken open and they saw the five children of the accused lying dead inside the house near M.O. 4 tub. There

was water in the tub to 3/4th of its height. Thereafter P.W. 11 went and informed her husband (P.W.

6) about the occurrence and P.W. 6 returned from his work and saw his children lying dead. P.W. 11 then informed the Village Munsif and made an oral report about the occurrence and it was reduced to writing. The report is Exhibit P-22. P.W. 16, the Village Munsif of Padagapatti went to the house of the accused and saw the dead bodies of the five children. The accused told P.W. 16 that she committed murder of the children by pressing their heads into the water tub. M.O. 4, and she also thereafter fell into the well in order to commit suicide. The Village Munsif then prepared the printed form reports and sent them to Annathanapatti Police Station and to the Sub-Magistrate No. 2, Salem. P.W. 17, the Sub-Inspector of Police, Annathanapatti, registered the case under Sections 302 and 309 of the Indian Penal Code. The Inspector (P.W. 19). Sakm Town, was duly intimated and immediately proceeded to the scene of occurrence, arrested the accused and sent her to the Government Hospital, Salem, for treatment. He held inquest between 7 p.m. and 12 midnight on that day (9th April, 1971). During the inquest he examined P.Ws. 1, 2 and 11 and others. He prepared the observation mahazar Exhibit P-25 attested by P.W.

16. He then sent the dead bodies of the children to the Government Hospital, Salem, for postmortem. Exhibit P-34 is the inquest report of Madesh; Exhibit P-35 is the inquest report of Pappathi; Exhibit P-36 is the inquest report of Maniammal; Exhibit P-37 is the inquest report of Devan and Exhibit P-38 is the inquest report of the female child, aged 1 1/2 years.

3. P.W. 10, the Civil Assistant Surgeon attached to the Government Hospital, Salem, conducted the post-mortem on the body of the male child Madesh at 11-45 P.M. on 10th April, 1971. Exhibit P-21 is the final report of the Doctor to the effect that the deceased would appear to have died of asphyxia due to drowning.

4. P.W. 9, the Medical Officer attached, to the same Hospital, conducted postmortem on the body of the deceased Pappathi a female child aged about 7 years. His opinion is Exhibit P-14. The Doctor endorsed her final opinion in Exhibit P-14 that the deceased would appear to have died of asphyxia about 24 to 26

hours prior to the post-mortem i.e., 9 a.m. the previous day.

5. The post-mortem on the body of the female child Maniammal was conducted by the same doctor and her opinion is Exhibit P-16 to the same effect as the one given in respect of Pappathi Ammal.

6. P.W. 5, the Medical Officer attached to the Government Hospital, Salem, conducted the post-mortem on the body of the male child aged about 4 1/2 years by name Devan and he was also of opinion that if the child was pressed with head downwards in a tub with water and kept there for sufficiently long, the death could have been caused.

7. P.W. 7, the Woman Assistant Surgeon attached to the Government Head Quarters Hospital, Salem, who conducted the post-mortem on the body of the deceased female child aged about i-J years (unnamed) reported to the same effect that if the child had been put into the tub of water the death could have occurred.

8. P.W. 5 examined the accused at 6-20 p.m. on 9th April, 1971 and found on her (2) a contusion 1' X 1/2' over the left eye and (2) a black eye formation. According to the Doctor these injuries were simple in nature and could have been caused by falling into the well while she was lifted from inside the well by coming into contact with some hard surface. The viscera in respect of each of the dead bodies were sent to the Chemical Examiner and the Chemical Examiner did not detect any poison in the viscera.

9. The accused made a confession as per Ex. P. n.11. The Additional First Class Magistrate, Salem, who after observing the requisite formalities ; recorded the confession wherein she admitted having committed the murder of her children and the circumstances under which she committed the offence. After completing the investigate P.W. 19 laid the charge-sheet against the accused On 6th June, 1971, charging her with an offence under Sections 302 and 309 of the Indian Penal Code.

10. The accused made her statement in the committal Court. In the Sessions Court she admitted the correctness of the statement made by her in the committal Court and admitted that she had committed the murder of her five children by drowning them in the water in the tub. M.O. 4, and that she jumped into the well in order to commit suicide. She stated that she did so because of poverty. In spite of the admission of guilt by the accused, the learned Sessions Judge recorded the evidence, as he felt that it was his duty to consider all the evidence in the light of the arguments advanced by the learned Counsel on both sides before coming to a definite conclusion. There were no eye witnesses to the occurrence in this case. There was Only the confessional statement recorded under Section 164 of the Criminal Procedure Code by P.W. 8, the Additional First Class Magistrate-1 Salem. The confessional statement, which was admitted by her in the Court of Session, was corroborated by the medical testimony of all the Doctors who conducted the post-mortem examination on the bodies of the deceased, children which clearly established that the death of the deceased children was due to forcible immersion of the children, into a tub containing water. The learned Sessions Judge held that the case of poisoning put forward by P.Ws. 1 and 2 was not made out by the medical testimony. The learned Sessions Judge accepted the confessional statement of the accused, which was strongly corroborated by the medical opinion. After extracting the confessional statement in full the learned Sessions Judge came to the conclusion that it was the accused who did away with all her five children with the intention of causing their death and therefore she was guilty of an offence under Section 302. Indian Penal Code, and that she was further guilty of the offence under Section 309, Indian Penal Code. Before imposing the sentence the learned Sessions Judge extracted passages from Chilappathikaram by Ilango Adigal, reference to the story of Nallathangal and passages from Shakespeare's Merchant of Venice.

11. On the question of sentence the learned Sessions Judge directed the accused to undergo imprisonment for life under Section 302, Indian Penal Code, under charge No. 3 in respect of murder of each of her children and also sentenced 1 he accused to undergo simple imprisonment for one year under Section 309. Indian Penal Code,, under charge No. 6. The learned Sessions Judge directed the sentences should run concurrently. Ultimately the learned Sessions Judge found

that it was a fit case in which a recommendation can be made to the Government under Section 401 of the Criminal Procedure Code, for commuting the sentence of life imprisonment imposed on the accused for offences under Section 302, Indian Penal Code to rigorous imprisonment for five years on each count and to be undergone concurrently. A further direction was given by the learned Sessions Judge to the Government that the accused may be detained in the Madras Seva Sadhan in accordance with G.O.Ms. No. 222 dated 20th January, 1931.

12. The appeal to this Court is against the conviction. The confessional statement, Ex.P.11 of the accused is in conformity with the medical opinion, which is to the effect that the accused drowned her five children in a tub 3/4th filled with water. Even in the grounds of appeal to this Court she admits commission of the offence, but pleads justification on ground of poverty. We are of opinion that poverty cannot justify commission of grave offences. We have, therefore, no hesitation in coming to the conclusion that the accused committed the grave crime of murdering five of her children and we agree with the learned Sessions Judge on the sentences imposed on the accused viz., the imprisonment for life in respect of each of the murders committed by her, as also the simple imprisonment for one year under Section 309, Indian Penal Code, under charge No. 6 and that the sentences should run concurrently.

13. We, however, consider that the imprisonment for life passed against her for infanticide may not be proper. In this connection we set out below the statement of the accused before the Court of Session in an answer to the last question put to her as giving a pathetic process by which and the circumstances under which she killed her children. The passage runs as follows:

14. The above extract reveals the harrowing tale of a poverty-stricken woman with a capacity to earn Rs. 2/- a day charged with maintaining five children between the ages of 11 and 1 1/2 years, the callousness of her husband towards his wife and children and his beastly desire in requiring a concubine during times when his wife is disabled 'by him, the indifference of neighbours in general, the mean advantages which the husband's brother wanted to get from his sister-in-law when she asked him for a loan of Rs. 2/- and the Doctor who demanded payment of

money for treating her children when they fell ill and only a spoonful of which alone used to be served to children presumably in the mid-day meal schema.

Even so, the accused is not justified in murdering her children and attempting to put an end to her life also. We can only take these circumstances into account in inflicting the punishment and seeking to reform her as a useful member of society. The Government have also as a policy provided for detention of such females convicted of infanticide and we propose to adopt such a course. In the circumstances of the case we recommend to the Government for commuting the sentence of life imprisonment imposed on the accused for an offence under Section 302, Indian Penal Code and, in supersession of the recommendation made by the Sessions Judge to substitute an imprisonment for a period of one year, the said period of one year being in lieu of the sentences passed on her both under Sections 302 and 309, Indian Penal Code. We further direct in accordance with G.O.Ms. N0.222 Law, (General) Department, dated 20th January, 1931, that the Government may detain the accused in the Madras Seva Sadan or any other institution having similar objectives for a certain period, to be fixed by the Government to train her and make her fit to earn a decent livelihood.

15. Before taking leave of the case, we direct the Sessions Judge hereafter not to make any reference to any literary work in the course of judgment, but to deal with the facts of the case in the judgment in the light of the evidence placed before him.

K.N. Mudaliyar, J.

While agreeing with the reasoning and conclusion in the judgment delivered by my learned brother, Raghavan, J., I would like to add a few words:

16. The confessional statement of the accused-woman recites a tragic tale of chill penury and stark poverty, driving her and her five children from semi-starvation to utter starvation month after month (for the past six months.) It also reveals the cruel neglect of her and her five children by her own husband who was indulging in illicit amorous liaison with One Or two concubines without his realising his responsibility towards his wife and children. Her children were stricken by disease

and at least one child became blind as a result of smallpox afflicting the child. The other children also were disabled by disease, privation and starvation. She displayed a rare virtue of chastity when she thwarted the illicit amours of her brother-in-law accompanying some little financial help which she spurned with womanly dignity. At long last, finding nothing rewarding or justifying in this world for the continued existence of herself and her five children, she was driven to such a mood of utter desperation and she killed her five children one after another by drowning them in a tub of water and after successfully completing her mission of mercy for her children by killing them one after another journeyed to a dismal well and plunged herself into that well to go to the other unknown world, but she was unfortunately rescued by a passer-by, P.W.1 (Kandaswami).

17. I agree with the recommendation of my learned brother for remitting and commuting the sentence of imprisonment for life to a period of R.I. for one

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