

Queen-empress Vs. Razai Mia

Queen-empress Vs. Razai Mia

SooperKanoon Citation : sooperkanoon.com/857738

Court : Kolkata

Decided On : Jul-01-1895

Reported in : (1895)ILR22Cal817

Judge : Macpherson and ;Banerjee, JJ.

Appellant : Queen-empress

Respondent : Razai Mia

Judgement :

Macpherson and Banerjee, JJ.

1. Two questions arise for consideration in this case:

First, whether the confession of the prisoner recorded by the committing Magistrate on the 7th of March 1895, which is the only important evidence against him, was recorded in the manner provided by Section 364 of the Code of Criminal Procedure, and was a true and voluntary confession; and

Second, whether, if the murder is proved to have been committed by the prisoner, he is not exempted from criminal responsibility by reason of unsoundness of mind.

2. Upon the first point, the only objection that can be raised against the admissibility of the confession is that it was not recorded in Bengali, the language in which the accused was examined, but was recorded in English. But the

evidence of the committing Magistrate, who says that there was no mohurrir with him at the time when the confession was recorded, and that he cannot write Bengali well, shows that the provisions of Section 364 of the Criminal Procedure Code have been sufficiently complied with; and this distinguishes the present case from that of *Jai Narayan Rai v. Queen-Empress* I.L.R. 17 Cal. 862. We, therefore, see no objection to the admissibility of the confession. We are also of opinion that it is a true and voluntary admission of guilt, and that taken along with the medical evidence, it is sufficient to show that the act of the prisoner, if it is an offence at all, amounts to the offence of murder.

3. This brings us to the consideration of the second question. Now, though some of the witnesses for the prosecution say that the accused had before the murder been of unsound mind for some months and after the murder also he was not quite of sound mind, we agree with the learned Sessions Judge in holding that the kind of unsoundness of mind deposed to was not sufficient to exonerate the accused from responsibility for crime under Section 84 of the Indian Penal Code, which requires that the unsoundness of mind must be such as would make the accused incapable of knowing the nature of the act, or that he was doing what was contrary to law. It is for the defence to make out this ground of non-liability, and we do not think that it has been made out.

4. Under the circumstances of the case, we think the learned Sessions Judge was quite right in not passing the sentence of death.

5. We, therefore, see no reason for our interference in this case, and we must dismiss the appeal.