

Taprinessa Vs. Emperor

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Court : Kolkata

Decided On : Jun-28-1918

Reported in : AIR1919Cal679,47Ind.Cas.275

Judge : Teunon and ;Newbould, JJ.

Appellant : Taprinessa

Respondent : Emperor

Judgement :

1. The appellant before us one Taprinessa has been convicted under Sections 201 and 203 of the Indian Penal Code and sentenced Under the first named Section to three years' rigorous imprisonment and under the second to two years' rigorous imprisonment, the two sentences to run concurrently. It appears that on the night of the 13th July 1917 the husband of this woman named Sanghi was Murdered, it would seem, shortly after midnight. The medical evidence shows that the cause of death was a blow with some cutting weapon, such as a dao or knife, on the right side of the neck cutting the anterior and internal jugular veins and also outting into the third cervical vertebra and resulting, in the opinion of the medical officer, in instantaneous death. On the following morning the appellant accompanied the village Chowkidar, one Idhai, to the local Tianah and there with a number of details gave an account of the murder. She charged one Afiruddin, her next door neighbour, as one of the murderers.

2. The substantial question in the case before the learned Sessions Judge and in this appeal before us is whether that charge and the account given were false and were known by the appellant to be false Afiruddin has been examined as a witness in this case and he has denied the commission of this murder or being any party thereto. His denial is corroborated by the absence, as the Judge finds, of any motive on his part to commit this murder and by all his subsequent conduct. We have no doubt, therefore, that in so far as she charged this man with murder, that charge was not true.

3. The further question is, whether she knew that it was a false charge that she was making. The circumstances on which the Judge relies as showing that the woman was in fact an accomplice in the murder, though not sufficient to enable him or us to come to such a finding, are yet sufficient to show that in naming Afiruddin as one of the murderers she knew that she was stating what was not true. These circumstances, shortly stated, are these: The fact that to the neighbours whom she saw in the morning following the occurrence she named no one; that she named Afiruddin for the first time on her way with the Chowkidar to the Thana; that on the next following day she made to investigating Sub-Inspector an entirely different statement implicating three others and that on the 26th July she submitted from jail a petition in which she combines her two stories. That the charge was intentionally false is also clear by the delay that the woman made in giving the alarm of in arousing her neighbours, by the fact that at an earlier stage of the night she sought to call out one of her neighbours on a false pretext, by the fact that in the clothes she was wearing there were no stains of blood and by the absence of any use of force or violence in the house in which she and her husband went to bed for the night. All these circumstances go to show that she knows far more about this murder than she was prepared to admit either at the time when she gave the first information or now. The reasonable inference from all this is that she in fact knew who the murderers were and that from some motive best known to her, possibly because of her quarrels some days before with Afiruddin's wife, she chose intentionally to implicate him.

4. There can be no doubt, therefore, that the conviction under Section 201 has been properly arrived at, and indeed we are unable to understand the process of

reasoning by which the Judge was led to acquit the woman of the charge under Section 211, Indian Penal Code. We can only suppose that he has overlooked the distinction between motive and intention, Not content with screening the real offenders the woman proceeded further falsely to implicate an innocent person. It cannot be supposed that a person who falsely brings such a grave charge against another does not know that the inevitable result will be injury to that person, and on general principles it should have been held that she intended that injury.

5. Lastly it has been argued in law that as the circumstances point to this woman being an accomplice in the murder she could not in law be convicted of the offence charged under Sections 201 and 203, and in support of this contention reliance is placed upon the cases reported as *Empress v. Behala Bibi* 6 C. 789 : 8 C.L.R. 207 : 207 : 3 Ind. Dec. (N.S.) 511 and *Torap Ali v. Queen-Empress* 22 C. 638 : 11 Ind. Dec. (N.S.) 425. We have, however, pointed out that though there are circumstances of grave suspicion against this woman it would be impossible on the record as it stands to hold that she was the murderer or one of the murderers. That being so, ever assuming that the oases reported as *Empress v. Behala Bibi* 6 C. 789 : 8 C.L.R. 207 : 207 : 3 Ind. Dec. (N.S.) 511 and *Torap Ali v. Queen-Empress* 22 C. 638 : 11 Ind. Dec. (N.S.) 425 are properly decided on their own facts, still the present case may be distinguished and in this connection we may refer to the case of *Sumanta Dhupi v. Emperor* 32 Ind. Cas. : 23 C.L.J. 333 : 17 Cr. L.J. 4 : 20 C.W.N. 166. As we have said in the present case the conviction, in our opinion, is legal and proper.

6. For these reasons we dismiss this appeal.

7. Before concluding, we desire to say that we do not agree with the Sessions Judge in his criticisms on the action of the Magistrate before whom the woman Taprinessa was produced on the 17th July, Though it might have been more happily worded, the caution given by the Magistrate to the woman, was in substance sound and proper.