

Ram Sundar Das Vs. Emperor

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Court : Kolkata

Decided On : Jan-10-1919

Reported in : 50Ind.Cas.991

Judge : Richardson and ;Shamsul Huda, JJ.

Appellant : Ram Sundar Das

Respondent : Emperor

Judgement :

1. The case of the accused Ram Sundar Das has been referred to us by the Additional Sessions Judge of Mymen singh under Section 307 of the Criminal Procedure Code. The accused was tried by the Additional Sessions Judge and a Jury on a charge of murdering his wife Lalita and his infant daughter Niroda by striking them with a dao. When the learned Judge had finished his charge to the Jury, they retired to consider their verdict. After an interval they informed the Judge through the mouth of their foreman that they were divided in the proportion of 3 to 2, and there was no chance of their being unanimous. At the instance of the Judge they again retired for further consideration. They returned after an absence of one hour and the foreman said 'we are all of one mind in finding that the accused killed his wife and child. Three of us find the accused guilty of murder under Section 302, Indian Penal Code, and two of us find him not guilty on the ground of temporary insanity.' The Additional Sessions Judge accepted the opinion of the Jury that the accused killed his wife and child. He agreed, however,

with the minority that the verdict should be not guilty on account of unsoundness of mind. He accordingly referred the case for orders of this Court.

2. In his letter of reference the learned Judge sets out his reasons for holding that the accused is exempt from criminal responsibility.

3. It is quite true that there was no apparent motive to explain the double murder and that the accused admitted without reservation what he had done and made no attempt at concealment or escape. As the accused himself says in his confession, he did not suspect his wife's fidelity. He had no reason to do so. He had been married for 17 years and had 5 children, of whom there is now only one daughter surviving. According to the accused his mind was a blank at the time of the occurrence and he was not conscious of what he did. He only awoke to the reality after he stepped into a tank up to his waist. There is some evidence that the accused had not been quite himself, that he had been disturbed and distressed by the shortage of cloth, rice and fodder. He had complained of the hard time he had been passing through; but there is no reliable evidence that his intellect was deranged. The Assistant Surgeon who had him under his observation after his arrest stated in the witness-box that he was always found to be in a sound state of mind and that he was capable of defending himself. There is some vague evidence that his natural father was mad. One witness said that he 'died of drowning when swimming' and that his head was bad for some years prior to his death. Another says he was something like mad. He used to say one thing now and another thing the next moment and soon. A third says 'he used to say incoherent words; so, I think, he was mad'

4. Giving all due weight to what the accused has himself said and the evidence before us, we are not satisfied that the cognitive faculties of the accused were so impaired that he did not know the nature of his act or that he was doing what was wrong or contrary to law. We may invite the attention of the learned Judge to the case of *Queen Empress v. Kadar Nasyer Shah* 23 C. 604 : 12 Ind. Dec. (N.S.) 401, where the provision contained in Section 84, Indian Penal Code, is explained and commented on. It is also to be remembered in this connection that the burden of proving unsoundness of mind rests on the accused.

5. In the circumstances we are unable to say that the verdict of the majority of the Jury that the accused is guilty of murder is erroneous. We must, therefore, confirm that verdict and sentence the accused to transportation for life.

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