

Dasaundhi Vs. the State

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Court : Himachal Pradesh

Decided On : Apr-24-1965

Reported in : AIR1965HP68,1965CriLJ765

Judge : Om Parkash, J.C.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 84 and 302; ;[Code of Criminal Procedure \(CrPC\) , 1898](#) - Section 368

Appeal No. : Criminal Appeal No. 5 of 1965 and Cri. Ref. No. 1 of 1965

Appellant : Dasaundhi

Respondent : The State

Advocate for Def. : Chuni Lal, Addl. Public Prosecutor in Criminal Appeal No. 5 of 1965 and Criminal Ref. No. 1 of 1965 and;

Advocate for Pet/Ap. : L.D. Varma, Adv. in Criminal Appeal No. 5 of 1965

Judgement :

Om Prakash, J.C.

1. Dasaundhi, who has been convicted by the learned Sessions Judge, Mahasu, Sirmur, Bilaspur and Kinnaur Sessions Division, under Section 302, I. P. C., for the murder of Shrimati Dhanni, and has been sentenced to death, has filed Criminal Appeal No. 5 of 1965, against his conviction and sentence. . The learned Sessions

Judge has also submitted the proceedings, to this Court, for the confirmation of the death sentence. The reference, made by the learned Sessions Judge, has been registered as Reference No. 1 of 1965. This judgment will dispose of both the appeal and the reference.

2. The prosecution case against Dasaundhi appellant was as follows :

3. Shrimati Dhanni, deceased, was the wife of the appellant. He suspected that Shrimati Dhanni was carrying on with his younger brother, Hari Ram, and intended to do away with him, by poisoning. The appellant was so much obsessed with the suspicion that Shrimati Dhanni had poisoned him that he had consulted Shankru PW-9, who was known for extracting poison, from the body of the person, affected, by black art. Shankru had made the appellant to gargle with enchanted milk. The appellant had vomited 7 black pills. Previously, the appellant and Shrimati Dhanni had visited Chet Ram PW-13, who used to treat people of the bad effects of evil spirits.

4. On the 28th March 1984, the appellant had gone to Paonta to attend a case, pending in the Court of the Tehsildar, against Narainoo. Nanak Chand PW-6, a son of the appellant, and Hari Ram, younger brother of the appellant, were also there. The case was compromised. The appellant, Nanak Chand and Hari Ram had left the Court at about noon. Nanak Chand and Hari Ram had taken tea in Paonta Bazar. They had invited the appellant, as well, to take tea, but he had refused and had left for his village. The appellant had reached his home at about 1.00 P. M. His minor sons, Sajjan PW-7 and Maluka, were at home. The appellant's wife, Shrimati Dhanni, was not at home. She had gone to the house of Mehar Singh Lambardar to get her grandson vaccinated. Shrimati Kashmari PW-3, appellant's daughter, who had gone to Akalgarh village, to attend a tailoring class, had come back at about 1-30 P. M. Shrimati Dhanni had also come home, by that time. The appellant had asked Shrimati Dhanni to accompany him to the jungle. He had told her that he would cut some poles from the jungle and she could help him in lifting the poles and could also collect some fuel wood.

The appellant and Shrimati Dhanni had, then, left for the jungle. The appellant had taken the Takwa Ex. P-4, with him. He had murdered Shrimati Dhanni, by inflicting

injuries, with the Takwa Ex. P-4, in the jungle. He had come back to his house. The appellant had patted Sajjan PW-7 and Maluka, his minor sons, on the head and had told them that he had killed their mother, whose body was lying near Bantiwala Khala. At this, Shrimati Kashmari PW-3 had asked her brothers to go to the jungle, in order to find out, whether what the appellant was saying was correct. Accordingly, Sajjan and Maluka had gone to the jungle. They had found that their mother was lying dead near the Bantiwala Khala. There were injuries on her head. Blood was coming out of the injuries. Sajjan and Maluka had returned to their house and had informed Shrimati Kashmari that their mother had been killed. All the children had started weeping and had gone to the Bantiwala Khala.

5. From his house, the appellant had gone towards the house of Dhanni Ram PW-2, Shrimati Dhanni's brother. Dhani Ram, Gulzar Singh PW-5, Bhagat Ram PW-8 and Khem Chand PW-11 were thatching the roof of Khem Chand's house. Dhani Ram had inquired of the appellant why his children were weeping. The appellant had replied that he had killed his own wife in Bantiwala Khala and that Dhani Ram could go and see for himself. Thereupon Dhani Ram, Gulzar Singh, Bhagat Ram and Khem Chand had gone to the Bantiwala Khala. Shrimati Dhanni was lying there dead with injuries on her head. Other villagers had also come on the scene of occurrence. Dhani Ram had left for Police Station, Paonta, to lodge the report. Gulzar Singh PW-5 had brought the appellant to the place of occurrence. Gulzar Singh had inquired of the appellant why he had killed his wife. The appellant had replied that he had killed her as she wanted to poison him and to live with Hari Ram, thereafter.

The appellant had given the same reply, when other persons, had made inquiries from him. Flies were collecting on the dead body of Shrimati Dhanni. To keep away the flies, Gulzar Singh PW-5 had covered it with a khesi (a sheet of cloth) which he had taken off from the person of the appellant. The appellant wanted back his khesi but the people, present there, did not allow him to remove it. The appellant had, then, gone near the dead body and had tried to remove the khesi. While doing so, he had said "Aya Maza Ab Jahar Khilane Ka. Pari Rahe Ab Yahan Aaram Kar.'" Nanak Chand PW-6 had, also, come on the spot. On an inquiry, by him, the appellant had told him that he had killed Shrimati Dhanni.

6. Dhani Ram PW-2 had lodged the report Ex. PA, at the Police Station, Paonta, on the 28th March 1964. The police had arrived in the evening. It had taken into possession the blood-stained stone Ex. P-3 and the pieces Ex. P-2 of a glass bangle from the place occurrence. The appellant was arrested on the 29th March 1964. Clothes Ex. P-5 to Ex. P-7, which he was wearing, and which were blood-stained, were taken into possession by the police. While in the police custody, the appellant had made the statement Ex. PD that he had concealed a blood-stained Takwa in a bush, near his house, and would discover it. In consequence of this statement, the appellant had discovered the Takwa Ex. P-4 from the bush. The Takwa was found to be blood-stained.

6a. The dead body of Shrimati Dhanni was sent to Civil Hospital, Paonta. for post-mortem examination. Doctor Durga Ram PW-1 had performed the post-mortem examination on the 29th March 1964. The Doctor had found 3 incised wounds and also contused wounds on the head and bruises all over the dead body. The skull had been fractured, as also ribs 7th to 9th. Death, in the opinion of Doctor Durga Ram, had occurred due to shock and multiple injuries of the head and fracture of the skull and ribs and haemorrhage from wounds. The appellant was also examined by Doctor Durga Ram. Some superficial bruises were found on his neck, chest and stomach.

7. The stones Ex. P-S, the Takwa Ex. P-4 and clothes of the appellant, Ex. P-5 to Ex. P-7, were found to be stained with human blood, by the Serologist.

8. The appellant was challaned, charge-sheeted and committed to the Court of the Session, under Section 302, I. P. G, for the murder of Shrimati Dhanni.

9. The appellant denied the charge, levelled, against him. He denied that he had entertained any suspicion about the faithfulness of Shrimati Dhanni or that he had suspected that she intended to poison him. The appellant, further, denied that he had visited Shankru PW 9 and Chet Ram PW-13. The appellant admitted that he had gone to Paonta to attend the Court of the Tehsildar on the 28th March 1964, but denied that he had left Paonta at about noon. His plea was that he had remained at Paonta upto 6 P. M. and had reached his house at dusk. The appellant denied that he had taken his wife, Shrimati Dhanni, to the jungle on the 28th March

or had killed her. The appellant, further, denied that he had told Shrimati Kashmari PW-S, Sajjan PW-7 and Maluka that he had killed their mother. He, also, denied that he had made any statement to Dhani Ram PW-2, Gulzar Singh PW-5, Nanak Chand PW-6, Bhagat Ram PW-8 and Khem Chand PW-11, that he had killed Shrimati Dhanni. The appellant did not admit that he had uttered the words 'Aya Maza Ab Jahar Khilane Ka. Pari Rahe Ab Yahan Aaram Kar.' He denied that the clothes Ex. 5 to Ex. P-7 belonged to him.

The appellant, also, denied that he had made the statement Ex. PD or had discovered the Takwa Ex. P-4. So far as the bruises, found on his body, were concerned, the appellant explained that he was suffering from some skin disease for the last two or three years and that the bruises were caused as a result of scratching his body. The appellant produced two defence witnesses, Shri Harisaran Dass DW-1 Tehsilder Paonta, and Bhagat Ram DW-2, a shopkeeper of Paonta. But none of these witnesses supported his plea that he was at Paonta upto 6.00 P. M. on the 23th March, 1964. Tehsildar Harisaran Dass stated that the case of the appellant had been compromised and that the appellant had left his Court at about 10. 30 A. M. Bhagat Ram DW-2 stated that the appellant had purchased a packet of cigarettes from his shop at about 12 noon and had, then, left his shop. The witness denied that the appellant had come to his shop at about 4.00 P. M.

10. The learned Sessions Judge held the appellant guilty for the murder of Shrimati Dhanni and convicted him under Section 302 I. P. C. The appellant was awarded the sentence of death. The findings of the learned Sessions Judge were that the appellant had a suspicion that Shrimati Dhanni intended to poison him to death and, thereafter, to live with his younger brother, Hari Ram, that the appellant had returned from Paonta at about 12 noon on the 28th March, 1964 and had taken Shrimati Dhanni to the jungle with him, that the appellant had murdered her, near Bantiwala Khala, with the Takwa Ex. P-4, that the appellant had made a confession that he had killed Shrimati Dhanni to Dhani Ram PW-2, Shrimati Kashmari PW-3, Gulzar Singh PW 5, Nanak Chand PW-6, Sajjan PW-7, Bhagat Ram PW-8 and Khem Chand PW-11 and that the appellant had discovered the Takwa Ex. P-4 from a bush in consequence of the statement Ex. PD. It was

pleaded, before the learned Sessions Judge, on behalf of the appellant, that the appellant was of unsound mind at the time of the commission of the murder and was entitled to the benefit of Section 84 I. P. C. This plea was rejected by the learned Sessions Judge.

11. There is no eye-witness to the commission of the crime. The conviction of the appellant is based on the following pieces of circumstantial evidence :--

(1) The appellant and Shrimati Dhanni had gone to the jungle together but the appellant had come back alone and immediately after Shrimati Dhanni was found murdered in the jungle.

(2) The appellant had made extra-judicial confession of his guilt to various persons.

(3) The clothes of the appellant were stained with blood when he had come back from the jungle.

(4) The appellant had taken the Takwa Ex. P-4 to the jungle. It was recovered at his instance from a bush and was found to be stained with human blood.

(5) The appellant suspected that Shrimati Dhanni had either poisoned him or intended to poison him to death so that she might live, thereafter, with his younger brother, Hari Ram and the appellant had, thus, a motive to kill Shrimati Dhanni.

12. The above circumstances stood proved by trustworthy evidence,: Shrimati Kashmari PW-S, a daughter of the appellant and Sajjan PW-7, a son, stated that the appellant had asked Shrimati Dhanni to accompany him to jungle and that both of them had gone to jungle, the appellant taking the Takwa Ex. P-4, with him. The witnesses, further stated, that after a short time, the appellant had returned alone and that his clothes were blood-stained. The appellant had told the witnesses that he had killed their mother. Shrimati Kashmari PW-3 had sent her brothers, Sajjan and Maluka, to the jungle to find out whether the appellant was really speaking the truth. Sajjan had gone to the jungle and had found their mother, lying dead, in Bantiwala Khala. The appellant had, also, confessed, to Dhani Ram PW-2, in the presence of Gulzar Singh PW-5, Bhagat Ram PW-8 and Khem Chand PW-11, that

he had killed his wife. These witnesses had gone to the jungle and had seen the dead body of Shrimati Dhanni with injuries on it, lying in Bantiwala Khala. Nanak Chand PW-6 had also come at the place of occurrence. The appellant had also made a confession of his guilt to him. There is absolutely no reason to doubt the veracity of the aforesaid witnesses.

13. The learned counsel for the appellant contended that an extra-judicial confession is a very weak sort of evidence and that the extra-judicial confession, made, by the appellant, to various witnesses, should not have been relied upon, for convicting the appellant. The question whether an extra-judicial confession can be relied upon and what is its evidential value was discussed, by their Lordships of the Supreme Court, in *Mulk Raj v. The State of U. P.*, AIR 1959 S C 902. Their Lordships observed :

'An extra-judicial confession, if voluntary, can be relied upon by the Court along with other evidence in convicting the accused. The confession will have to be proved just like any other fact. The value of the evidence as to the confession just like any other evidence, depends upon the veracity of the witness to whom it is made. It is true that the Court requires the witness to give the actual, words used by the accused as nearly as possible, but it is not an invariable rule that the Court should not accept the evidence, if not the actual words but the substance were given It is for the Court, having regard to the credibility of the witness, his capacity to understand the language in which the accused made the confession to accept the evidence or not.'

14. In the instant case, the appellant had, immediately after the commission of the crime, made a confession of his guilt to his son and daughter. The confession was not a complicated one. It consisted of a single line that the appellant had killed the mother of the children. His son and daughter could very well understand the language of the appellant. The credibility of the son and 'the daughter could not be doubted for a moment. Similarly, there is no reason to reject the extra-judicial confessions, made to Nanak Chand PW-6, another son of the appellant, Dhani Ram PW-2, his brother-in-law, Gulzar Singh PW-5, Bhagat Ram PW-8 and Khem Chand PW-11. The extra-judicial confessions, to the above witnesses, were

voluntarily made and could be used along with other evidence for convicting the appellant.

15. Another piece of evidence, which connected the appellant with the crime, was the discovery of Takwa Ex. P-4, at his instance, from a bush. Shrimati Kashmari PW 3 and Sajjan PW-7, who were at the house, when the appellant and Shrimati Dhanni had left for the jungle, had stated that the appellant had taken the Takwa Ex. P-4 with him to the jungle. Dasondha Singh PW-4 and Gulzar Singh PW-5 had deposed that the appellant had made the statement Ex. PD that he had concealed the Takwa in a bush and that the Takwa Ex. P-4 was discovered at his instance from the bush. The witnesses also deposed that the Takwa was blood-stained. The stains were found to be of human blood by the Serologist.

16. The evidence of Shrimati Kashmari PW-3, Sajjan PW-7, Shankru PW-9, Chet Ram PW-13, Gulzar Singh PW-5, Bhagat Ram PW-8 and Paras Ram PW-12 leads to the inference that the appellant suspected that he had been poisoned by Shrimati Dhanni. Shrimati Kashmari PW-3 stated that her mother had told her that the appellant had some suspicion against her and in order to dispel that suspicion she was taking the appellant to Dholi Dhang temple. According to the witness, Shrimati Dhanni had taken the appellant to the temple and had told her, on return, that there was nothing very much wrong with the appellant. The statement of Shrimati Kashmari receives support from the evidence of Chet Ram PW-13. This witness carried on the profession of treating people of their ills by witch-craft. Chet Ram stated that the appellant and his wife had come to him.

The witness, further, stated that the appellant had inquired of him whether any drug had been administered to him. Shankru PW-9 stated that the appellant had come to him and had told him that he was suffering from the effects of poison. Shankru had made him to gargle with enchanted milk. According to the witness, the appellant had vomited seven black pills. Sajjan PW-7 stated that his mother had once talked to the appellant that he suspected her of administering poison to him. After the commission of the crime, the appellant had told Gulzar Singh PW-5 and other people that he had killed Shrimati Dhanni as he suspected that she intended to poison him and live thereafter with, Hari Ram, his younger brother.

Gulzar Singh PW-5, Bhagat Ram PW-8 and Paras Ram PW-12 stated that while trying to remove the the khesi from the dead body, the appellant had said, addressing the deadbody, 'You have been punished for administering poison. Now rest here.'. It is clear that the appellant had a strong suspicion that Shrimati Dhanni had either poisoned him or intended to poison him. The appellant had a motive to kill her.

17. The injuries, found on the dead body of Shrimati Dhanni, indicated that she had been violently and brutally killed. Three incised wounds were found on the head. The skull and ribs 7th to 9th had been fractured. There were also contused wounds. The intention of the murderer, in inflicting injuries, was to cause death of Shrimati Dhanni.

18. The circumstantial evidence, discussed above, was incapable of explanation on any other hypothesis than that it was the appellant who had murdered Shrimati Dhanni, by inflicting injuries, with the Takwa Ex. P-4.

19. The plea of the appellant that he was not at his village at about 2-00 p. m. when the crime is alleged to have been committed but was at Paonta remained unsubstantiated. The evidence of his own witnesses, Tehsildar Harisaran Das DW-1 and Bhagat Ram DW-2, gave lie to the above plea. The appellant had left Paonta at about noon and should have reached his village, situated at a distance of about five miles from Paonta, at about 1-30 P. M. Shrimati Kashmari PW-S stated that the appellant was at his house at about 1.30 P. M, when she had returned from school. Dhani Ram PW-2 and other prosecution witnesses had seen him in the village at the time of the murder of Shrimati Dhanni.

20. The plea that the appellant was of unsound mind, at the time of killing Shrimati Dhanni, and was entitled to the benefit of Section 84 I. P. C., was reiterated in this Court. It is well settled that every man is presumed to be sane and to possess a sufficient degree of reason to be responsible for his acts unless the contrary is proved. The burden of proof that the mental condition of the accused at the crucial point of time, namely, at the time of the commission of the offence, was such as defined in Section 84 I. P. C. lies on him, vide *State of Madhya Pradesh v. Ahmadulla*, A. I. R. 1961 Section C. 998. Speaking generally, the previous history

of the accused, the pattern of the crime, the circumstances under which it had been committed, the manner and method of its execution, the behaviour of the accused before and after the commission of the crime, furnish some of the important clues to ascertain whether the accused was of unsound mind at the time of the commission of the crime and was incapable of knowing the nature of the act, vide *Ramdulare Ramadhin Sunar v. The State*, 1959 Cri. L. J. 844: (AIR 1959 Madh Pra 259). In the instant case, there is no evidence that the appellant had ever suffered from any attack of insanity. Two sons, one daughter and a brother-in-law of the appellant had appeared as prosecution witnesses. None of them stated that the appellant had ever suffered from any mental disorder. They did not even state that the appellant had ever exhibited any abnormal behaviour. Nanak Chand PW-6, the son of the appellant, stated that the appellant was quite normal when he had left Paonta on the 28th March, 1964. The appellant had appeared in the Court of the Tehsildar Paonta on that day and had conducted himself like a normal man. After his arrival at home, the appellant had asked his wife to accompany him to jungle. He had taken a Takwa with him. After committing the crime, he had concealed the Takwa in a bush. The inference is that the appellant was conscious that he had committed an act which was wrong or contrary to law and that the blood-stained Takwa would furnish a clue to the commission of the unlawful act.

The appellant did not exhibit any symptoms of any mental disease during the trial. He appreciated the questions, put to him, under Section 342, Criminal P. C., and gave intelligent answers. So far as the allegation of the prosecution that the appellant had inflicted bruises on his body after the commission of the crime, is concerned, I am inclined to believe the explanation of the appellant that the bruises were caused when he had scratched his body, as he was buffering from some skin disease.

21. There was no previous history of any mental disorder about the appellant. The behaviour of the appellant, before and after the commission of the crime, and the pattern of the crime, indicated that the appellant was of sound mind, at the time of the commission of the murder of Shrimati Dhanni and was capable of knowing the nature of his act.

22. It was contended, by the learned counsel for the appellant, that the appellant had entertained a deep-rooted delusion that Shrimati Dhanni intended to poison him to death and, thereafter, to live with his younger brother and that that delusion had unhinged his mind. The learned counsel, further, contended that the fact that the appellant had not run away, after the commission of the crime, and had been making open confessions of his guilt, was consistent only with the appellant being of unsound mind. Though the appellant had denied, in his examination, under Section 342, Criminal P.C., that he had any suspicion about the fidelity of Shrimati Dhanni, yet the prosecution evidence did disclose that he did entertain a strong suspicion that she was not true to him and had poisoned him. Reference, in this connection, may be made to the evidence of the prosecution witnesses, Shrimati Kashmari P. W. 3, Gulzar Singh P. W. 5, Sajjan P. W. 7, Bhagat Ram P. W. 8, Shankru P. W. 9 and Paras Ram P. W. 12. But there is no evidence that this suspicion or delusion had, in any way, afflicted the mental faculties of the appellant.

As already discussed, the appellant had been conducting himself like a normal man, throughout. Even if it be assumed that the appellant had killed Shrimati Dhanni, under the delusion, that she had poisoned him in order to live with his younger brother after his death, he cannot escape the criminal responsibility of, his act, as he was a sane man at the time of the commission of the act and knew that what he was doing was a wrong act. It was held in *Ghinua Uraon v. Emperor*, A I R 1918 Pat. 179 (S B) that :--

'Where a person otherwise sane but labouring under the influence of an insane delusion commits an act of revenge for some supposed grievance or injury, he is nevertheless punishable according to the nature of the crime committed, if at the time he understood that he was committing a wrong and unlawful act.'

23. The mere fact that the appellant did not abscond after the commission of the crime and made open confession of his guilt to several persons cannot lead to the conclusion that he was of unsound mind and incapable of knowing the nature of his act. The facts in *Seat Ali v. Emperor*, A I R 1917 Pat. 503 were that the accused had murdered his wife, who believed herself to be possessed of evil

spirits and had repeatedly pressed her husband to kill her. The accused had made a clear confession of his guilt to 6 or 7 persons. A plea, under Section 84, Penal Code, was taken up, on behalf of the accused. That plea was not accepted. It was held that the mere fact that the accused had killed his wife under a superstitious belief and had made open confession of his guilt to several persons did not lead to the inference that he was of unsound mind at the time of the commission of the murder and did not know the nature of his act.

24. The appellant had failed to prove that he was of unsound mind at the time of committing the murder of Shrimati Dhanni and was incapable of knowing the nature of his act. He was not entitled to the benefit of Section 84, Penal Code, and was rightly convicted, under Section 302, Penal Code.

25. The question of sentence, imposed upon the appellant, is not free from difficulty. On the one hand, it is clear, from the injuries, found on the dead body of Shrimati Dhanni that the murder was brutal and cruel. On the other hand, it is equally clear from the evidence on record, that the appellant had entertained a strong suspicion that his wife was not faithful to him and had poisoned him or intended to poison him to death. That suspicion must have been galling and gnawing the appellant. That Shrimati Dhanni was aware that the appellant suspected her and was angry with her is clear from the evidence of Shrimati Kathmari P. W. 3, Sajjan P. W. 7 and Dhayan Nath P. W. 10. The last-named witness had been approached by Shrimati Dhanni, for giving her, an enchanted thread, to make her husband happy with her. On the day of occurrence, the appellant had reason to be angry and annoyed, when he had left Paonta, for his home, inasmuch as his son, Nanak Chand P. W. 6 had not accompanied him but had remained, at Paonta, with Hari Ram who was suspected by the appellant to be carrying on with Shrimati Dhanni.

It may be that the appellant had, in the jungle, accused Shrimati Dhanni for her illicit connection with Hari Ram and there was a quarrel between husband and the wife. Another fact, which deserves consideration is that the appellant has 8 children, the eldest, Nanak Chand P. W. 6, being 26 years old. If the appellant is hanged, at least 8 of his children will be rendered orphans. On giving my anxious

and careful consideration to the above circumstances, it seems to me that the extreme penalty of law is not called for in the present case and that the ends of justice will be met if the appellant is sentenced to imprisonment for life.

26. As a result of the above discussion Reference No. 1 of 1965 is rejected. The sentence of death, imposed upon the appellant, is not confirmed. Criminal Appeal No. 5 of 1965 is allowed to the extent that the sentence, imposed on the appellant, is reduced to imprisonment for life.

27. Before parting with the case a contention of the learned counsel, for the appellant, regarding the invalidity of judgment of the learned Sessions Judge, may be disposed of. The contention was that the judgment was illegal and, therefore, liable to be quashed, as the learned Sessions Judge failed to comply with the mandatory provisions of Section 368, Criminal P. C. That section lays down that when any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead. The learned Sessions Judge did not incorporate, in his judgment, the above direction. He simply stated that he awarded the sentence of death to the appellant. But the failure of the learned Sessions Judge to specify, in his judgment, that the appellant, who was sentenced to death, be hanged by the neck till he is dead, was only an irregularity. The irregularity could vitiate the judgment only if it had occasioned a failure of justice. There is nothing to show that the irregularity had caused any prejudice to the appellant or any failure of justice. The irregularity, committed by the learned Sessions Judge, was curable and did not vitiate his judgment. As this Court has reduced the sentence, imposed on the appellant, to imprisonment for life, no further action is needed with respect to the aforesaid irregularity.