

# SUPREME COURT OF INDIA

Gopalan Nair

Vs.

State of Kerala

Crl.A.No.256 of 1972

(A. N. Grover, K. K. Mathew and A. K. Mukherjea, JJ.)

22.12.1972

## JUDGEMENT

### **GROVER, J.:-**

1. The appellant was found guilty of an offence under Section 302, Indian Penal Code, and sentenced to death by the Sessions Judge, Kottayam. He filed an appeal to the Kerala High Court and a reference was also made for confirmation of the death sentence to that Court under S. 374 of the Criminal Procedure Code. We have already, by our order dated December 7, 1972 allowed the appeal to the extent of reducing the sentence to one of life imprisonment instead of death. We proceed to state our reasons for doing so.

2. According to the case of the prosecution one Gouri Amma who was a spinster was living along in Cheruvally village. She was stated to be living the life of sanyasini but, all the same, it was alleged that the appellant had illicit liaison with her. He lived separately in another house which was in the vicinity of the house of Gouri Amma. He had even lived with her for some time. Three years prior to the incident the appellant had to stay as a patient in the Mental Hospital at Trivandrum owing to

some mental trouble. After return from the hospital he was not on good terms with Gouri Amma. It was alleged that he was labouring under the impression that his mental trouble was due to the evil influence of Gouri Amma. It is unnecessary to state the other facts. All that need be mentioned is that according to the case of the prosecution the appellant went to the house of the deceased on the morning of June 4, 1971 and stabbed her on her chest and neck. The occurrence was witnessed by P.W. 1. There was other evidence also and the case for the prosecution was believed by both the Sessions Judge and the High Court. During the trial the appellant claimed that he was of unsound mind and he was admitted as a patient in the Trivandrum Mental Hospital but there was no indication anywhere as to the report made by the Medical Officer-in-charge of the Hospital. The defence which was put up was that he was of unsound mind at the time of the incident and the benefit of S. 84, Indian Penal Code, was sought. The High Court negatived that defence.

3. We concur with the view of the High Court that it had been proved beyond doubt that it was the appellant who had murdered Gouri Amma and that he was not entitled to the benefit of S. 84 of the Indian Penal Code. But we are unable to appreciate why the extreme penalty of death should have been inflicted on the appellant in the circumstances of this case. Firstly there can be no manner of doubt that he had some sort of mental trouble prior to the date of the occurrence. There is nothing to show that he was not suffering from a mental obsession which may not amount to insanity but which would affect a person's mind in a way quite different from that of a normal person. The appellant seemed to harbour some sort of grudge that his trouble was due to the evil influence of Gouri Amma. If he had been quite normal his reaction might have been different. He was in all likelihood not in a position to weigh and analyse in a rational manner whether his trouble could be due to the reason mentioned before. Nor is it clear from the prosecution evidence as to what transpired between Gouri Amma and the appellant before he started stabbing her. In other words, the origin of the incident is not known. In our judgment this is not a case in which the penalty of death should have been inflicted.

4. We are, therefore, of the view that the lesser penalty for an offence under S. 302, Indian Penal Code, should be imposed. The sentence will thus stand reduced to that of life imprisonment.

Sentence reduced.