

ALLAHABAD HIGH COURT

Ramnath

Vs

Emperor

(Boys, J.)

11.06.1929

JUDGMENT

Boys, J.

1. Ramnath, the appellant, was put on his trial on a charge under Section 302, I.P. C, of having murdered his wife on 26th August 1928. We have read the judgment of the learned Additional Sessions Judge and the material evidence and, as the learned Additional Sessions Judge says in his judgment, the facts are not in dispute. We need not therefore recapitulate them further than is necessary for the purposes of the present judgment. On 28th July 1928, Ramnath made a confession which was recorded under Section 164, Criminal P. C, it is only necessary to read that statement to appreciate that Ramnath was at that time either wandering in his mind or shamming. The committing Magistrate, however, who heard the witnesses and who again had of course to take the statement of Ramnath, recording it under Section 364, expressed in his commitment order the view that whether or no Ramnath was at the time of committing the offence of unsound mind, he was at the time of the inquiry before the committing Magistrate capable of making his defence. He found as follows: From the statement of this very witness (Bachchoo) it appears that there is a history of accused having gone mad at one time some two years ago. He is, however, quite fit to make his defence, gave quite rational replies to all questions put to him by the Court at the inquiry.

2. The case apparently came before the Additional Sessions Judge and the assessors for the first time on 13th October 1928, The learned Additional Sessions Judge on that date took the statement of Dr. Gade, an Assistant Civil Surgeon, who furnished a certificate (Ex. K) to the effect that in his opinion the accused was not insane. Dr. Gade further stated on oath that he had the accused under observation for three days from 10th October to 12th October, that Ramnath answered questions rationally, looked sane and slept well and showed no signs of insanity. He stated that he thought that Ramnath could understand the nature of the proceedings and that if the three days' observation had indicated any suggestion of insanity he would have kept the man under observation longer. Ramnath was also examined by the Court and he made a statement which again clearly indicated that his mind was wandering or that he was pretending. All three assessors thought, on hearing the doctor's statement and the evidence of an uncle of the accused and what the accused had to say, that the latter was "sanki," which the learned Judge says was stated to mean "a state of mind when a man ceases to act like a responsible agent," We think that

both the Judges and the assessors were right, on the materials at any rate that they then had before them, in not being satisfied that the accused was capable of defending himself. The learned Judge said that he thought that it was desirable that Ramnath should be kept under observation in a hospital for at least three weeks before he could be certified to be in a fit state of mind to stand his trial. The case was adjourned until 12th January 1929, but owing to the absence of two out of the three assessors had to be adjourned again to 6th February. The order-sheet shows that in the interval an Assistant Civil Surgeon had certified that he could find no reason for holding the accused to be insane. This is disclosed further by a certificate of the doctor of 30th November 1928. It was upon receipt of this certificate by the learned Judge that on 12th December he fixed a date for the trial.

3. So far there is, in our view, no fault to be found with the proceedings. Section 465 requires that the question of whether the accused is of unsound mind and consequently incapable of making his defence should be tried by the Court with the aid of assessors, and should be deemed to be part of his trial before the Court. We are satisfied that the learned Judge was himself of opinion on seeing the second certificate by an Assistant Civil Surgeon given after observation for a considerable period, that the accused was not then of unsound mind and was capable of making his defence; but we are unable to find any trace of any proceeding by which, the Judge put to the assessors, or in any other way with their aid tried, the question of the accused's capacity to make his defence, and came to any decision with the aid of the assessors on that point. We conclude that the Judge was personally himself satisfied for otherwise we could not understand how he could have proceeded with the trial.. But we find in his judgment in the case the following phrase:From his appearance in Court also one got the impression that he was an insane person, but whose insanity normally ran in a subdued course making it easy for people to believe that there was nothing seriously wrong with, him,

4. This would suggest that actually in Court there was something in the demeanour of the accused which raised doubts in the Judge's mind.

5. The absence of any proper trial and finding as to the question of the accused's capacity to make his defence might well have resulted in our having to set aside the conviction and sentence and direct a retrial of the accused at Sessions. But in this particular case, for the reasons which we shall now give, we are satisfied that this is not necessary.

6. The evidence, in our view, indubitably establishes that the accused was entitled to the benefit of Section 84, I.P.C. It is unnecessary to recapitulate the facts which are all set out in the judgment of the learned Judge. He himself appears to have wavered in regard to the question of the state of mind of the accused at the time he committed the act. After quoting Section 84 he says:I have set out all the facts of his mental history from which it may be inferred whether the accused was not in possession of his sense of responsibility in spite of his insanity at the time when he committed the murder. I find it difficult to answer that question and from the case law it appears that unless one can answer that question in the affirmative there should be a conviction for the offence.

7. All the assessors were of the opinion that the accused was not guilty. The learned Additional Sessions Judge's doubts may, we think, fairly be expressed as follows:

I am satisfied that the accused was of unsound mind at the time he committed the act, I am not

satisfied that he was by Mason of that unsoundness of mind incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

8. In other words, he was satisfied that the accused was "medically" insane and insane in the ordinary vulgar acceptation of the term, but he was not satisfied that the accused was "legally" insane. If we are putting his view correctly, he was right. On the other hand, we are satisfied ourselves, on the history of this man and the circumstances on the material date when he killed his wife, that he was not at the time capable of knowing that what he was doing was wrong and contrary to law. We, therefore, allowing the appeal hold that Ramnath did kill his wife, but is entitled to the benefit of Section 84, I.P.C.

9. We, therefore, direct that he be detained in his present place of detention, which we are informed is the Central Jail at Naini in the district of Allahabad, until orders have been passed on his case by the Local Government, and we direct that a copy of this order be sent forth with to the Local Government, We further direct that a copy also be sent immediately to the Superintendent of the Central Jail at Naini with the request that he will take such steps as may be necessary in view of the possibility of a recurrence of violence on the part of Ramnath.