

Madras High Court

In Re: Sorimuthu Pillai vs Unknown on 3 February, 1941

Equivalent citations: (1941) 2 MLJ 399

Author: S Burn

JUDGMENT Sydney Burn, Officiating C.J.

1. The appellant has been convicted by the learned Sessions Judge of Tinnevely for the murder of his sister Parvathi and for attempting to murder his sister's daughter Gomathi. He has been sentenced to death for the offence of murder and the learned Sessions Judge has quite properly not passed any separate sentence for the offence of attempting to murder.

2. The case was a simple one and there was a large number of eye-witnesses. The appellant's daughter Valli (P.W. 10) had been married to Rangayya, a son of the appellant's sister Parvathi. Rangayya died on the 25th June, 1940, and his body was cremated before the appellant and his daughter Valli could reach the village. The appellant's brother Avadiappa Pillai (not examined as a witness) appears to have said that since Rangayya's body had been cremated, Valli's tali ought to be taken off at once. Valli and her father both objected to this. There were further troubles caused by the fact that Parvathi who was a woman of some means had made a will in which she had expressed her intention of leaving her property in equal shares to her three sons. After the death of Rangayya the accused wanted his sister to make a gift to Valli of the share that would have been given to her husband under the will. Parvathi herself, according to the evidence of P.W. 3, refused to comply with this request.

3. In these circumstances very early in the morning of the 1st July, the appellant began to beat the women of the house with a short but heavy rice pounder or pestle (M.O. 1). He struck his sister Lakshmi (P.W. 11). He hit his daughter, P. W. 10. He hit P.W. 5 the daughter of the deceased, Gomathi. He hit his wife Kali (P.W. 9). Then his sister (the deceased) cried out from the kitchen and he went into the kitchen and struck her on the head fracturing her skull. Parvathi died at about 6 p.m. the same night. There were five eye-witnesses (P. Ws. 3, 4, 5, 7 and 8) and the learned Sessions Judge has left out of account the evidence of P.Ws. 3 and 5, thinking it doubtful whether they could have seen exactly what happened. But he has found no reason to disbelieve the evidence, of P.Ws. 4, 7 and 8. Relying upon their evidence the learned Sessions Judge convicted the appellant for the murder of his sister and for attempting to murder Gomathi. We think that the conviction arrived at by the learned Sessions Judge in which he agreed with two of the assessors and disagreed with the other two was correct. But this we think is a case in which we can accede to the plea finally made by learned Counsel for the appellant in the matter of sentence. The learned Sessions Judge in paragraph 18 of his judgment has stated circumstances which, we think, do afford sufficient ground for mitigating the punishment in this case. He has pointed out that the murder was not premeditated, that there were reasons for disagreement which might very well have provoked a quarrel on the morning of the 1st July, and that the unfortunate plight of his daughter Valli must have caused the appellant a considerable amount of pain. These circumstances have moved the learned Sessions Judge to recommend that in this case the Government might commute the death penalty. It is not necessary in such a case to make a recommendation to the Government. If there are circumstances which justify the imposition of the lesser penalty, the Sessions Judge can do so.

Confirming the conviction of the appellant for murder, we set aside the sentence of death and sentence him instead to transportation for life. The conviction for attempt to murder also is confirmed.