

(1897) 11 AHC CK 0005

Allahabad High Court

Case No: None

Queen-Empress

APPELLANT

Vs

Tulsha

RESPONDENT

Date of Decision: Nov. 23, 1897

Acts Referred:

- Penal Code, 1860 (IPC) - Section 307

Citation: (1898) ILR (All) 143

Hon'ble Judges: John Edge, C.J.; Burkitt, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

John Edge, C.J. and Burkitt, J.

Musammat Tulsha has been convicted of the offence punishable u/s 307 of the Indian Penal Code, and has been sentenced to transportation for life. She was a young woman of twenty or twenty-one years of age and was a widow, her husband having died before the gauna ceremony was performed. She had a lover named Tika Ram, who was of the same caste as herself. She was anxious to live with him, but her father and family were opposed to her taking that course, as in their caste the marriage of widows was forbidden. Musammat Tulsha prepared the family meal, and of that meal her father, her mother and her brother partook. They were afterwards seized with illness and exhibited symptoms of poisoning by datura. A native doctor was called in, who, recognizing what they were suffering from, refused to treat them and communicated with the police. The police arrived that night. The three members of the family who were suffering were removed to the dispensary and ultimately recovered. Musammat Tulsha was taken into custody, and she gave up a packet containing thirty-one datura seeds. She made a statement before the Magistrate in which she admitted that she had administered datura to her father, her mother and her brother in the food she had given. That statement was subsequently withdrawn, but, as it is entirely consistent with all the evidence in the

case which we believe, we accept that statement as true notwithstanding its withdrawal. In the Court of Session her relations, in order to shield her, tried to make out a different case, namely, that what they were suffering from was the result of drinking bhang. We are quite satisfied that Musammat Tulsha administered datura to her father, her mother and her brother. Mr. Sorabji, who appeared for her, has contended that there is nothing to suggest that she intended to commit murder, and that there is no evidence that she knew that datura when administered might cause death. It is probable that Musammat Tulsha did not intend to kill her parents and her brother. No doubt she intended to incapacitate them for the time that she might fly with her lover. There is no evidence that she knew that datura when administered to a human being might cause death. The same might have been said if she had administered arsenic or nux vomica. It appears to us that we must presume that people of her age have the ordinary knowledge of what the results may be of administering datura. It would be dangerous in the extreme to the public in this country if Judges were to hold that it could not be presumed that a woman of twenty years of age in an Indian village was not aware that death might be caused by the administration of datura. If we were to hold that such was the presumption, we fear that poisoning by datura would become more frequent than it is. In our opinion Musammat Tulsha was properly convicted. It was a case to which the sentence of transportation applied, and that was the proper sentence to pass. As the Sessions Judge truly observes, this woman's act might have resulted in the deaths of three persons. "We dismiss this appeal.