

(1881) 03 CAL CK 0005

Calcutta High Court

Case No: None

In Re: Behala Bibi

APPELLANT

Vs

RESPONDENT

Date of Decision: March 7, 1881

Acts Referred:

- Penal Code, 1860 (IPC) - Section 201

Citation: (1881) ILR (Cal) 789

Hon'ble Judges: Pontifex, J; Field, J

Bench: Division Bench

Judgement

Pontifex, J.

We think that the conviction in this case cannot be sustained.

2. The facts are as follows:---Behala, the appellant, with her infant, was sleeping in the same room with her husband. Her husband, on awaking about dawn, found her and her child missing. After some search, she was found at a relation's house, but without the child. As to what had become of the child she then, and subsequently, made contradictory statements. She said at one time that she had left it in the room with her husband. At another time she said that she had been enticed away by one Rakhal; that the child had cried, and Rakhal had said "let me go and leave it with its father;" that he then took the child away and quickly returned, upon which she and Rakhal went away together.

3. Before the Magistrate she said that one Herasatula had enticed her away, and that he had thrown the child into the river.

4. The Sessions Judge has believed the last story, and has convicted the woman u/s 201 of the Penal Code of giving false information respecting the murder of Ujjala, her infant, with the intention of screening the murderer from legal punishment, i.e., with the intention of screening Herasatula. The information said to be false is that

contained in her statement as to Rakhal. Now there is no evidence to show that the story about Herasatula is more true than that about Rakhal, and there is no good reason why the Judge should adopt one story rather than the other.

5. As to what the woman stated about Rakhal, the evidence is very meagre as to the exact language and the exact occasion upon which this language was used; and the statement as given by the Police Officer Bereshur it certainly not information respecting the murder of Ujjala, for she said merely that Rakhal had taken the child away after expressing an intention of leaving it with its father.

6. The unfortunate woman appears to have disappeared by night from her husband's side and there is much reason to suppose that she took her infant with her. She was found some time after without her infant, which was of too tender an age to take care of itself. Under these circumstances, grave suspicion attached to the woman. When she was arrested, she made contradictory statements as to what she had done with the child. Her manifest object in making these statements was to exculpate herself. We think Section 201 of the Penal Code was not intended to apply to such a case---a case, that is, in which the person, who is the possible or probable offender, makes statements exculpating himself by inculpating another.

7. That Herasatula murdered the child, and that Bahala knowing this gave information respecting the murder, with the intention of screening Herasatula from punishment, rest upon no evidence. We reverse the conviction and direct the release of the appellant Behala.