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(1911) 10 CAL CK 0001

Calcutta High Court

Case No: None

Emperor		APPELLANT
	Vs	
Sukhu Bewa		RESPONDENT

Date of Decision: Oct. 10, 1911

Judgement

1. In this case one Sukhu Bewa was tried before the Sessions Judge of Nadia and a Jury on charges of murder and causing hurt by means of poisoning. She was acquitted by the unanimous verdict of the Jury. The matter now comes before us on a letter of reference u/s 307, Criminal Procedure Code in which the Judge recommends that, in the interests of justice the verdict of the Jury should be set aside and a verdict of guilty on either of the charges substituted in its place.

2. The case is comparatively a simple one as far as the facts a e concerned. It is alleged that the deceased man Kubi''r had marital relations with the accused with whom he contracted a nika marriage He afterwards left her and contracted another nika marriage with a woman of the name of Dukhu. This being so, it is suggested that there was ill-feeling between the accused and the deceased man. On Firday the 21st April the deceased left his house early with some other man to cut some grass in a neighbouring chur. He had no food before he started. On his return home he had to pass by the house of the accused, who invited him to come in and to eat some food. He complied with the invitation and received some jaw in which he noticed something white. This excited his attention and he suggested that there was something the matter with the jaw The woman said that the whiteness was caused by the jaw having been cooked with milk of the night before and encouraged him to eat it. He ate a part of it and was almost at once taken ill. He vomited outside the house on his way home and on coming to his own house he was attacked with sickness and purging. This continued through the rest of Friday and though Saturday when he died at half past four in the afternoon. Medical assistance was sought for but was not forthcoming immediately. The man, however, was treated in the first place for indigestion and subsequently on the symptoms that appeared.

3. It is the case for the prosecution that almost at once on the man being found sick in the house poisoning was suspected and th it he accounted for his condition by telling the story that the accused had invited him into her house and gave him jaw to eat This story rests entirely on statements made by the deceased man which are admissible because they refer to the cause of his death, though we do not care to rely too much upon the details of these statements, because, although admissible, they are nevertheless heresay But the statements are spoken to by witnesses whose good faith we see no eason for doubting and on the record they are substantially enough in accordance with one another to suggest that the witnesses are telling the truth, and that, at all. events, the main part of the story relating to the giving of the jaw by the accused is true. We will take it in the present case as proved that the deceased man received food from the accused, that he went home and died afte the symptoms which have been indicated by the various witnesses at half past four on the next day The police on being called in very properly collected what indications they could of the illness from which the man was suffering, and his vomit and the result of the purging were as far as might be collected from the holes into which they have been th own. The earth was collected on the 24th and there can be no doubt that in that earth as also in the viscera of the deceased there was found a certain quantity of arsenic and from the symptoms which have been spoken to, particularly the vomiting and purging, there can be no reasonable doubt that the deceased man died from the effect of the arsenic. So far, the case seems to us to be proved. But there remains a very important part of it which must be carefully considered. It must be proved that the accused woman knowingly administered poison to the deceased with at least the intention of causing him hurt. The most natural way of doing this would be to show that she had obtained, or was in possession of, arsenic at the time that she gave the jaw to the deceased Her house has been searched apparently carefully. No traces of arsenic have been found in it. The evidence that has been offered on this part of the case goes to show that her grandson, the day before the jaw was given to the deceased, was in the house of Bhola Muchi in whose possession a certain quantity of arsenic has been found There is evidence that Bhola Muchi is at least suspected of poisoning cattle but it is undoubtedly a matter of suspicion that the grandson of the accused should be in that house so short a time before arsenic was administered to the deceased. At the same time, we have not got before us the evidence either of Bhola Muchi or of Rahim, the grandson of the accused, and without their evidence it is apparently impossible to trace any arsenic into the possession of the accused. It is not for us to judge of this case on the merits. It is no doubt one of very great suspicion; but all that we have to consider is whether the verdict of this Jury ought to be set aside Under the circumstances of the case we think that it ought not. There is a substantial gap in the chain of evidence which one generally expects to see completed in such a case as the present. It is true that the Jury have not mentioned this point in the reasons which they have given for their verdict But whatever may be the proper practices as regards asking the Jury for their reasons in such a case as

the present, we cannot leave out of sight the fact that they have reasons for their verdict which they had not mentioned in answer to the Judge''s question. In our opinion there is a gap in the evidence which might be expected in the case and we do not consider, therefore, that the rest of the case is so strong that we ought to set aside the unanimous verdict of the Jury.

4. The result is that we do not adopt the recommendation of the Judge, the verdict of acquittal will stand and the accused will be released