Privy Council Appeal No. 20 *of* 1949

Suka - - - - - - - - - - - - *Appellant*

v.

The King - - - - - - - - - - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT NAGPUR

REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL,

DELIVERED THE 22ND NOVEMBER, 1949

Present at the Hearing:

LORD SIMONDS
LORD OAKSEY
SIR LIONEL LEACH

[*Delivered by* LORD SIMONDS]

This appeal is brought by special leave from a Judgment and Order of the High Court of Judicature at Nagpur dismissing the appellant's appeal from the judgment of the Additional Sessions Judge Bhandara, dated the 30th January, 1948, whereby the appellant was convicted of murder under Section 302 of the Indian Penal Code, and confirming the sentence of death passed upon him.

The grounds of appeal are stated to be "(*a*) that there was no ground upon which the trial court was entitled to find the appellant guilty of any offence, and (*b*) that both the learned trial judge and the learned judges of the High Court arrived at their findings by indulging in a series of surmises which were unsupported by evidence," and it was no doubt upon the footing that a review of the evidence adduced at the trial might justify these conclusions, that leave to appeal was given.

Their Lordships have therefore with the assistance of counsel scrutinised with particular care the whole of the evidence and the judgments of the trial judge and of the High Court. Having done so, they have come to the conclusion that it would be wholly contrary to the established practice of the Board in criminal cases to interfere with the decision of the Courts in India in this case. Their Lordships do not think that any useful purpose would be served by reviewing the evidence. It is sufficient to say, first, that there was evidence upon which the trial court could find the appellant guilty of the crime with which he was charged, though another tribunal might have come to a different conclusion upon it; and, secondly, that the so-called surmises, in which the learned judges in both Courts were said to have indulged, were not unsupported by evidence but were based upon incidents which are more likely to be correctly appreciated by the learned judges in India than by their Lordships.

For these reasons their Lordships have humbly advised His Majesty that this appeal should be dismissed.

(67163) Wt. 8084—42 190 1/50 D.L. G. 338

In the Privy Council

SUKA

v.

THE KING

DELIVERED BY LORD SIMONDS

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