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BISHEN DAS
v.
TULSI SHAH & SONS.

a sure source of multiplying litigation. We also view with disapproval the issue of a warrant of arrest against the decree-holder for the realisation of the amount due to Tulsi Shah. This illegal course should not have been adopted to enforce the order of the Court in favour of Tulsi Shah.

A. N. C.

Appeal allowed.

APPELLATE CRIMINAL.

Before Young C. J. and Abdul Rashid J.

1935

Jan. 17.

DHUNDA (CONVICT) Appellant

versus

THE CROWN—Respondent.

Criminal Appeal No. 1508 of 1934.

Criminal Trial — Evidence of eye-witnesses — found to be wholly unreliable — whether can be corroborated by other evidence.

The Sessions Judge acquitted two out of the three persons tried by him on a charge of murder as he found the evidence of the eye-witnesses far from reliable and very untrustworthy. He, however, convicted the third accused, because there was evidence of the recovery from his house of a blood-stained chopper and a blood-stained sheet. In other words he used the evidence of recovery to corroborate the evidence which he had not relied on as against the other two. The High Court on appeal agreed with the Sessions Judge as regards the eye-witnesses and found their evidence so unreliable as to be worth precisely nothing at all.

Held, that it was impossible in law to corroborate the evidence of the eye-witnesses, as nothing cannot be multiplied or corroborated, and that the appellant must also be acquitted.

Appeal from the order of Mr. E. C. Marten, Sessions Judge, Sialkot, dated 31st October, 1934, convicting the appellant.

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DHUNDA
v.
THE CROWN.

KANWAR SAIN, for Appellant.

NAZIR HUSSAIN, Assistant Legal Remembrancer, for Respondent.

The judgment of the Court was delivered by—

YOUNG C. J.—Three persons Dhunda, Shafi and Allah Rakha were charged with murder in the Court of the learned Sessions Judge of Sialkot. The learned Sessions Judge acquitted Shafi and Allah Rakha, but convicted Dhunda. Dhunda appeals.

Dhunda had cause to dislike Muqaddam Din, the murdered man. On the night of the 15th/16th May, the prosecution alleges that while the deceased was sleeping with his wife and daughter and his son, these three accused came to the house, two of them seized the murdered man, and Dhunda, with a chopper, cut his throat.

The eye-witnesses are the wife, daughter and the son. The learned Sessions Judge came to the conclusion that the eye-witnesses could not be trusted. He says, " The statements of *Mussammat* Daulat Bibi and her son and daughter are, in my opinion, far from reliable. They are full of discrepancies and contradictions." Later on he says: " It seems to me that the account of the assault given by these three witnesses is very untrustworthy. It is true that they cannot be expected to have noticed minor details, but some of these discrepancies are by no means trivial." The learned Judge, because he could not rely on the eye-witnesses has acquitted Shafi and Allah Rakha. Against Dhunda, however, there was evidence of the recovery from his house of a blood-stained chopper and a blood-stained sheet. The learned Judge has used this evidence to corroborate the evidence which he has not relied on as against the other two accused.

We have examined the evidence and we come to the same conclusion as the learned Judge as regards the eye-witnesses. The contradictions and discrepancies are so many and so material that it is almost impossible to believe that these witnesses saw anything of importance. Their evidence is so unreliable as to be worth precisely nothing. It appears to us, therefore, to be impossible in law to corroborate this evidence. Nothing can not be multiplied or corroborated.

The only point remains as to whether the evidence of the recovery from Dhunda's house of a blood-stained chopper and a blood-stained *chadar* is enough by itself to justify the conviction of Dhunda. We do not think it is. This is circumstantial evidence the value of which is very great when used to corroborate other evidence. It cannot by itself prove the case for the Crown. It is possible to imagine many an occasion where the mere discovery of a blood-stained weapon or blood-stained clothes was due to something other than murder, for instance, concealing a dead body or receiving from the real murderer a blood-stained weapon in order to hide it and so assist the murderer. It is impossible to say that the discovery of a blood-stained article is enough by itself to justify a conviction for murder. This being our view we have to accept the appeal and set aside the conviction and sentence of death.

A. N. C.

Appeal accepted.