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The one must in the words of section 33 of the Act XI of 1859, be the " reason " of the other and there should be " proof " of it. The cause or causes of phenomena or events, especially in political economy, are generally numerous and complicated and not unfrequently difficult of detection. The true motives of human [549] action are also often mysteriously shrouded from the public, and material evidence, as frequently happens in Courts of law, is withheld from a desire to conceal the truth. Scientific precision in the discovery of causes according to the strict rules of inductive logic is thus rarely attainable in law. But Courts are enjoined to exclude all other causes of substantial injury and confine the ground of relief to proof of the relation of cause and effect between irregularity and substantial injury. The connection must be established by evidence. As regards the amount or nature of evidence there is an apparent conflict of authorities. But we do not think it necessary in this case to enter into the vexed question or attempt to reconcile the apparently conflicting decisions. The question is essentially one of fact and must be decided in each case with reference to the evidence direct as well as circumstantial. The presumption of cause and effect from circumstances irrespective of direct evidence may occasionally be so violent as practically to exclude the hypothesis of any other cause and may thus be *prima facie* proof. Such was evidently the case in *Saadatmand Khan* v. *Phul Kuar* (1), in which the Judicial Committee allowed the application to set aside a sale without reference to any direct evidence as to the irregularity complained of being the cause of substantial injury as provided in section 311 of the Code of Civil Procedure.

Taking, therefore, the question raised before us to be one of fact, we see no reason to differ from the Court below in its estimate of the evidence. The evidence is both direct and circumstantial.

Two of the witnesses say that they would have bid at the sale if they could have ascertained what the share intended to be sold was and that they were deterred on account of the non-specification of the share. These witnesses have been believed by the lower Court and their credibility is strengthened by the fact of the great inadequacy of price. It has not been suggested, much less proved, that the low price fetched at the sale was due to any other cause except the irregularity complained of, and we do not find our way to disregard the direct testimony in proof of the case set up by the plaintiffs.

The appeal, therefore, fails, and it is dismissed with costs.

Appeal dismissed.

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32 C. 550 (=2 Cr. L. J. 405)

[550] CRIMINAL APPEAL.

Before Mr. Justice Henderson and Mr. Justice Geidt.

SADANANDA PAL *v.* EMPEROR.*

[26th January, 1905.]

Confession—Accused—Signature—Thumb impression—General Clauses Act (X of 1897), s. 3, cl. (52)—Criminal Procedure Code (Act V of 1898) s. 164.

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* Criminal Appeal No. 1068 of 1904, against the order of A. Goodeve, Sessions Judge of Birbhum, dated Nov. 28, 1904.

(1) (1898) I. L. R. 20 All. 412.

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A thumb-mark affixed to a confession by an accused able to write his name is not a "signature" within the meaning of s. 8, cl. 52 of the General Clauses Act or s. 164 of the Criminal Procedure Code.

CRIMINAL APPEAL.

CRIMINAL APPEAL by Sadananda Pal.

32 C. 550=2 Cr. L. J. 405.

The accused, Sadananda Pal, was jointly tried with three others before the Sessions Judge of Birbhum with the aid of Assessors, and was convicted under s. 302 of the Penal Code and sentenced to death on the 28th of November 1904.

It appeared that on the 15th of September 1904, the accused was taken to Mr. J. A. Hubbock, the Subdivisional Officer of Rampurhat, before whom he made a statement admitting a previous arrangement to beat the deceased and his presence at the time of the occurrence. The accused then affixed his thumb-mark to the record, and the Magistrate made the memorandum at the foot thereof in the form required by section 164 (3) of the Criminal Procedure Code. On the 4th of October following the accused retracted the above statement, alleging that the police had given him a severe beating, had put a heavy stone on his chest and thrust red pepper into his nostrils, and had told him to make the statement. He then signed the record of his examination as "Sadananda Pal" and the Magistrate attached the certificate under section 364 (2) of the Criminal Procedure Code with his signature below.

Babu *Shamatul Chandra Dutt* for the appellant.

The Deputy Legal Remembraner (Mr. *Douglas White*) for the Crown.

[551] HENDERSON AND GEIDT, JJ. With regard to the appeal of Sadananda Pal, a confession said to have been made by him before a Magistrate was relied upon. We find, however, that this confession was not signed by him, although it appears from the record of his examination before the Committing Magistrate that he is able to write. Upon the document itself there is a thumb-mark close to the printed words "signature or mark of the accused" in the place where, if he had signed, he would have placed his signature. This is not a "signature" within the meaning of clause 52, section 3 of the General Clauses Act, under which a mark is to be considered a signature only in the case of a person unable to write his name. The provisions, therefore, of section 164 of the Code of Criminal Procedure have not been complied with. Moreover, there is nothing to show how the appellant came to be taken before the Magistrate, who recorded his confession.

Under these circumstances we return the record to the Sessions Judge, and direct him to take evidence as to whether the appellant, Sadananda Pal, duly made the statement recorded, and as to the circumstances under which he was taken before the Magistrate, and the person by whom he was taken. On this evidence being taken, the Sessions Judge will certify the result of his inquiry and send the evidence recorded along with the record to this Court.

Meantime we adjourn the appeal of Sadananda Pal.

Case remanded.