

## APPELLATE CRIMINAL.

*Before Mr. Justice Stephen and Mr. Justice Coxe.*

1907

April 23.

DIL GAZI

v.

EMPEROR.\*

*Insanity—Unsoundness of mind—Delusion—Knowledge of the nature of the act—  
Penal Code (Act XLV of 1860) s. 84.*

Where the accused cut his wife's throat without any rational motive, and was captured at once without any attempt on his part to escape or offer resistance, and the evidence showed that before the commission of the offence he suffered from a failure of reasoning powers, and also that he entertained delusions as to dangers which threatened his wife:—

*Held*, that the facts proved unsoundness of mind which prevented the accused from knowing the nature of his act, and that s. 84 of the Penal Code applied.

THE accused was tried before the Sessions Judge of Backergunge with the aid of assessors, and found guilty of murder of his wife, and sentenced to transportation for life under s. 302 of the Penal Code.

The assessors found that the accused cut his wife's neck with a *dao*, but that he was at the time, by reason of unsoundness of mind, incapable of knowing the nature of his act. They were also of opinion that he committed the act under a delusion that his wife would either elope or be taken away by some men, and that he had no other reason for killing her.

The learned Sessions Judge, differing from the assessors upon the question of the application of s. 84 of the Indian Penal Code, sentenced him as above.

The first information showed that for about six weeks before the occurrence the accused harboured a delusion that armed men would come to his house and take his wife away, and that he was under that delusion on the evening of the occurrence; that since this period he had suffered from mental derangement, and did no

\* Criminal Appeal No. 208 of 1907, from the judgment of J. D. Cargill, Sessions Judge of Backergunge, dated Dec. 18, 1906.

field work; and that five or six days before the occurrence he wanted to beat his wife under the delusion that she would elope. The evidence, in addition to the above, was to the effect that for about a month and a half previously he had not attended to his crops, saying that the paddy would grow by itself, nor to his cattle; that he chased and abused people; that he said he wanted to die as he thought people were going to loot his house; that he climbed up a tree saying his pillow was there; and that he cut himself on the arm with a *dao*. It also appeared that after the murder he made no attempt to escape or offer resistance, or to conceal his act.

The Sessions Judge found that the accused was deranged in mind on some points but not on others, and that he suffered from delusions as regards his wife and in some other matters. He held that the delusion in the former respect was that she might elope or be taken away, but that this delusion would not justify him in killing her, and that he knew the nature of the act he committed. He, however, thought that the case was one which might be dealt with by the Local Government under s. 401 of the Criminal Procedure Code.

No one appeared for the appellant.

STEPHEN AND COXE JJ. The only question we have to consider in this appeal is, whether the accused ought to be acquitted under section 84 of the Indian Penal Code.

There is no doubt that he cut his wife's throat in a brutal way without any rational motive, that he was captured at once, and made no attempt to escape or resist arrest.

There is no doubt that his mind was at the time unsound. He apparently had definite delusions as to dangers that threatened his wife; his disease affected his intercourse with his neighbours, and his cultivation of his crops, in both of which he showed a failure of his reasoning powers. His climbing a tree in search of his pillow indicates a state of mind resembling that generally described as idiocy. In view of the uncertainty that always exists as to how far a diseased state of mind extends, and

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in view of the difficulty, that is never absent from cases like this, of obtaining any trustworthy evidence, we find that the facts on the record prove that the unsoundness of his mind prevented his knowing the nature of his act, and that it was wrong.

We therefore acquit the accused, and order that he shall be kept in safe custody as the Sessions Judge shall direct, and the case to be reported to the Local Government.

E. H. M.