

(1896) 08 MAD CK 0002
In the Madras High Court

Queen-Empress

APPELLANT

Vs

Raru Nayar and Others

RESPONDENT

Date of Decision : 12-08-1896

Acts Referred:

Citation : (1896) ILR (Mad) 482

Hon'ble Judges : Subramania Ayyar, J; Davies, J

Bench : Division Bench

Judgement

1. Independently of the confessions, the evidence for the prosecution is admittedly not sufficient to warrant the conviction of either of the accused.

But, if the confessions can be acted on as true, they do, if taken together (one prisoner's with the other's) conclusively prove the guilt of both. We

see no reason to believe they were not true for the chief reason that they were not coerced, for, even when the prisoners retracted them, they did

not allege that the confessions had been extorted from them by the police, nor is there any allegation that they were obtained by inducement. In

withdrawing their confessions the prisoners still admitted that they obtained a gun on the night of the murder from the boy Velu Rutti, who, as sixth

witness, confirms their statements, thereby corroborating their confessions in a most material particular. The fifth witness also corroborates the two

prisoners in stating that they were in company together on the night of the murder and proceeded together to get the gun from the sixth witness.

The prisoners have given no evidence of what they wanted the gun for, and what they did with it--if they did not want it, and did not use it for

killing the deceased. This is a strong circumstance against them which they have failed to explain. As to motive, it is shown that the deceased was

at enmity with the first prisoner, who was also the person most interested in his death, circumstances going to confirm the truth of his confession that he was desirous of injuring the deceased. The second prisoner had no personal interest in the murder of the deceased, but both he and the first prisoner in their confessions explain how he came to be hired to commit the offence for a pecuniary consideration. Who have not overlooked the fact that only one of the two prisoners could have fired the fatal shot, and that which of the two did it cannot be determined upon the mere confessions. But there is no doubt they were both present at the commission of the crime, aiding and abetting each other; consequently both are liable to be convicted for the substantive offence of murder. We therefore agree with the Sessions Judge and confirm the conviction and sentence of both prisoners.