

A

SOM NATH

v.

STATE OF HARYANA

March 31, 1980

[V. R. KRISHNA IYER AND E. S. VENKATARAMIAH, JJ.]

B

*Indian Evidence Act Section 32—Dying Declaration—Value of.*

The petitioner was found guilty of burning his wife by the Courts below. By Special Leave Petition, the Petitioner sought to discredit the dying declarations.

Dismissing the petition,

C

HELD: Concurrent findings of fact cannot be disturbed on enormity of improbability. The dying declarations under Section 32 of the Evidence Act, are the groaning utterances of a dying woman in the grip of dreadful agony which cannot be judged by the standards of fullness of particulars which witnesses may give in other situations. To discredit such dying declarations for shortfalls here and there or even in many places, is unrealistic, unnatural and unconscionable, if basically there is credibility. [280E-G]

D

CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Crl.) No. 3478 of 1979.

From the Judgment and Order dated 10-8-1979 of the Punjab & Haryana High Court in Criminal Appeal No. 427/77.

*N.C. Talukdar, J.P. Malhotra and J.D. Jain* for the Petitioner

The Order of the Court was delivered by

E

KRISHNA IYER, J., Wife burning—that atrocious species of murder horrendously escalating in some parts of this country—is the shocking crime proved, according to two courts, by the prosecution in this case. Concurrent findings of fact cannot be disturbed save on enormity of improbability which we are unable to see in the present case. The three dying declarations corroborated by other circumstances are sufficient in our view to bring home the offence. Counsel has sought to discredit these declarations relevant under s. 32 of the Evidence Act forgetting that they are the groaning utterances of a dying woman in the grip of dreadful agony which cannot be judged by the standards of fullness of particulars which witnesses may give in other situations.

F

To discredit such dying declarations for shortfalls here or there or even in many places is unrealistic, unnatural and unconscionable if basically there is credibility. The terrible in this case has taken place in the house and in the presence of the husband who has been convicted. We hardly see any reason for interfering with this conviction, and would have been shocked ourselves if any other course had been adopted either by the trial court or by the High Court. Gender justice has a high place in Indian criminal jurisprudence. Dismissed.

G

H

N.K.A.

*Petition dismissed.*