

FIRST DIVISIONAL COURT.

MARCH 14TH, 1919.

REX v. SANDERSON.

Criminal Law—Manslaughter—Evidence—Conviction of Husband for Causing Death of Wife—Death not Caused by Neglect of Husband to Provide Medical Attendance.

Case stated by MASTEN, J.

The defendant was convicted of manslaughter—his wife being the victim.

Two questions were submitted: (1) as to the admission of evidence; (2) whether there was any evidence on which the defendant could properly be convicted.

The case was heard by MACLAREN, MAGEE, and HODGINS, JJ.A., MIDDLETON, J., and FERGUSON, J.A.

W. A. Henderson, for the defendant.

Edward Bayly, K.C., for the Crown.

MIDDLETON, J., read the judgment of the Court. He said that, in the view which the Court took, it was necessary to consider the second question only.

Sanderson and his wife had been separated. There was a short-lived reconciliation, but Sanderson again left her, in such circumstances that, upon the evidence, he might well be regarded as having abandoned her. The wife was then not well; on the next day she went to her mother's house; Sanderson was told that his wife was ill; he telephoned to his mother-in-law's house, and was forbidden to communicate further or to go to the house; he was not then told that his wife's illness was serious. The mother, on the next day, sent for a doctor, who attended the wife until her death. On the day after the doctor's first visit, a constable was sent to the defendant at his place of business, and was received by him with violent and profane language. About a week later, the woman died of pneumonia following upon influenza.

Upon these facts it was plain that the charge of manslaughter was not made out. It was not shewn that the woman's death was caused by any neglect on the part of any one. She was with her own mother; and, as soon as the necessity for medical attendance became apparent to those with her, medical attendance was procured, but this did not prevent her illness having a fatal termination.

It could not be said that the conduct of the husband brought about the death of the wife, when there was the admission that proper medical attendance was in fact procured by some one else.