

**The Crown Prosecutor Vs. Gopal Alias Malayalathan**

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**SooperKanoon Citation :** [sooperkanoon.com/774024](http://sooperkanoon.com/774024)

**Court :** Chennai

**Decided On :** Jan-21-1941

**Reported in :** AIR1941Mad551; (1941)1MLJ475

**Appellant :** The Crown Prosecutor

**Respondent :** Gopal Alias Malayalathan

**Judgement :**

**Horwill, J.**

1. The house of P.W. 4 was broken into and in the process some panes of glass were broken. The only clue that the investigating officer was able to obtain was that on the broken panes of glass there were some impressions of fingers. These were photographed and magnified and sent to the Finger Print Bureau. The accused was arrested on suspicion and the impressions of all his fingers were taken. They were compared by an expert of the Bureau (P.W. 1), who has given evidence to the effect that the impressions found on the glass were those of two of the fingers, namely, the left index finger and the left ring finger of the accused. The Special Honorary Presidency Magistrate declared himself not satisfied by this evidence and gave the accused the benefit of the doubt. The Crown has appealed against this decision.

2. The Court is not bound to accept the evidence of an expert, even though there are no special reasons for not accepting it; and it was certainly proper on the part

of the Magistrate to satisfy himself by personal examination that the impressions of the accused and of those on the broken glass were identical. Even though he did not feel himself to be expert, yet he was bound, unless he was himself satisfied that the expert's evidence was correct, to acquit the accused. As the learned Magistrate did compare the impressions, I do not think this Court should set aside the acquittal merely because the learned Magistrate might have adopted a sounder procedure.

3. One of the impressions found on the glass was a fairly good one, but the other was somewhat blurred; and it was probably difficult for the learned Magistrate to compare all the points made by the expert merely with aid of the notes. What he should have done was to have asked the expert in Court to elucidate his notes and to point out in the two impressions the points of identity which he had found. The expert filed his notes with his evidence and he has pointed out no less than 11 points of identity with regard to one impression and 10 points with regard to the other. If these points of identity really do exist, then there can be no doubt that the expert satisfactorily proved that the impressions on the glass were those of the accused. Unfortunately, the expert had no opportunity of explaining to the Magistrate. The Magistrate let him leave the box without questioning him with regard to any single point of his evidence. Although I am not interfering with the order of acquittal, I would like to express a hope that the learned Magistrate, if he has to deal with the evidence of an expert witness in future, he will take the pains to have the expert explain in Court the reasons for his opinion. It is only after hearing those reasons in detail that the Magistrate would be in a position to express a sound opinion whether or no the expert's opinion is satisfactory.

4. The appeal is dismissed.