

**Kunhussa Vs. the Queen**

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**SooperKanoon Citation :** [sooperkanoon.com/774628](http://sooperkanoon.com/774628)

**Court :** Chennai

**Decided On :** Feb-28-1882

**Reported in :** (1882)ILR5Mad28

**Judge :** Innes and ;Muttusami Ayyar, JJ.

**Appellant :** Kunhussa

**Respondent :** The Queen

**Judgement :**

**Innes and Muttusami Ayyar, JJ.**

1. The appellant is satisfactorily identified as one of those who took part in the robbery by the first three witnesses for the prosecution, and their evidence is corroborated by the wound on his finger. It appears further from the evidence that more than five men were concerned in the robbery. As to the sentence, we are inclined to think that it is not good in law, in so far as it directs transportation for three years in default of payment of fine. It appears to us that Section 591 only enacts a general rule to the effect that in the case of offences for which no transportation is specially mentioned as a punishment and which are punishable with imprisonment for a term of 7 years or upwards, it is competent to the Judge to substitute a sentence of transportation as a substantive sentence for that of imprisonment.

2. We think, therefore, the sentence requires to be revised, and we direct that the Sessions Judge do pass a revised sentence as to the punishment to be inflicted in default of payment of fine. In other respects we dismiss the appeal.

3. Ordered accordingly.

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