

Kotha Subba Chetti and ors. Vs. the Queen

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Court : Chennai

Decided On : Feb-23-1883

Reported in : (1883)ILR6Mad252

Judge : Innes and ;Kernan, JJ.

Appellant : Kotha Subba Chetti and ors.

Respondent : The Queen

Judgement :

Innes and Kernan, JJ.

1. We think the Vakil, third prisoner, was improperly put upon his trial on a charge under Section 181 of the Indian Penal Code.

2. Having been called upon, in an enquiry under the Legal Practitioners' Act, to explain his conduct, it was not competent to the Court which conducted the enquiry to take a statement from him on solemn affirmation. He was not, therefore, in such proceeding legally bound by an oath to speak the truth, and, if he stated what was false, did not render himself amenable to the charge of 'making a false statement under Section 181, Indian Penal Code, or giving false evidence under Section 193, Indian Penal Code.

3. The conviction as to this prisoner must be quashed, and his immediate discharge ordered.

4. With regard to the cases of the other two prisoners, we are of opinion that the enquiry under the Legal Practitioners' Act was a judicial proceeding, and that false statements on solemn affirmation made by the witnesses should have been charged as offences under Section 193, Indian Penal Code, and the persons so charged should have been tried separately. It is obvious that the prisoners must have been prejudiced in their trial by the highly irregular procedure of trying them together, which deprived them of the evidence of each other in defence. We might direct a new trial, but, having regard to the fact that the statement alleged in each case, if false, appears to have been immaterial or very slightly material, and that the punishment already undergone is probably sufficient, we shall set aside the convictions and sentences and simply direct the discharge of the first and second prisoners.

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