

The Public Prosecutor Vs. Nagappan Servai

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Court : Chennai

Decided On : Mar-12-1941

Reported in : AIR1941Mad718; (1941)1MLJ695

Appellant : The Public Prosecutor

Respondent : Nagappan Servai

Judgement :

Lakshmana Rao, J.

1. The appeal and revision case arise out of Sessions Case No. 103 of 1940 in which two persons were tried by the Assistant Sessions Judge of Ramnad with a jury, the first accused for an offence under Section 392 read with Section 397, Indian Penal Code and the second accused, under Section 394 of the Indian Penal Code. The jury unanimously found the 1st accused guilty under Section 392 Indian Penal Code and the second accused under Section 394 Indian Penal Code and accepting the verdict the Assistant Sessions Judge sentenced the first accused to rigorous imprisonment for two years and the second accused to rigorous imprisonment for 18 months. The Crown appeals against the acquittal of the first accused of the offence under Section 397 Indian Penal Code and the revision case has been preferred by the Public Prosecutor for enhancement of sentence.

2. The case is simple and as found by the jury P. W. 2 was robbed of her jewels on her way to Nattarsankottai along with her mother P.W. 3 and brother P.W. 4. M.O. No. 1, the knife was used by the 1st accused to frighten P.Ws. 3 and 4, and it struck and caused hurt to P.W. 2. The second accused then removed the jewels and both the accused were caught soon after, the first accused with M.O. No. 1, the knife with human blood on it and the second accused with M.O. Nos. 2 to 5 the stolen jewels. The knife M.O. 1 is a deadly weapon and it was used at the time of committing the robbery. Section 397 Indian Penal Code does not require the user to be against the person robbed and the guilt of the first accused under Section 392 Indian Penal Code read with Section 397 Indian Penal Code admits of no doubt. The appeal is therefore allowed and the first accused is convicted under Section 392 read with Section 397 Indian Penal Code and sentenced to the minimum punishment of rigorous imprisonment for seven years.

3. The revision case becomes unnecessary as regards the first accused and the sentence of the second accused who is a first offender cannot be said to be inadequate. The revision petition is therefore dismissed.