

In Re: Kottengodan Alavi

In Re: Kottengodan Alavi

SooperKanoon Citation : sooperkanoon.com/775808

Court : Chennai

Decided On : Oct-12-1938

Reported in : AIR1939Mad269; (1939)1MLJ123

Appellant : In Re: Kottengodan Alavi

Judgement :

Lakshmana Rao, J.

1. The appellant has been convicted of the murder of his step-brother Kunhali and sentenced to transportation for life by the learned Sessions Judge of South Malabar.
2. There was an altercation between the appellant and Kunhali near the shop of the appellant about 10 A.M. on the 20th of May last and Kunhali was stabbed with M.O. No. 1 the knife on the left forearm. The radial artery was pierced and Kunhali' died of haemorrhage soon after.
3. The appellant is alleged to have stabbed the deceased in the course of the altercation and P.Ws. 9 and 10 the disinterested witnesses not to mention P.Ws. 8 and 12 the relatives of the deceased swear to it. P.W. 13 saw the appellant pursuing the deceased with a knife in his hand and the belated story of the appellant in the Sessions Court that he was attacked by five persons including P.W. 8 and the deceased and a stab aimed at him might have caused the injury of the deceased is worthless. The witnesses were not questioned about any quarrel

between the deceased, accused and others, nor is there any reason to doubt the evidence which shows that in the course of an altercation between the two, the appellant stabbed the deceased on the left forearm.

4. But the forearm is not a vital part and as was rightly conceded the offence is not murder. It would not also be culpable homicide not amounting to murder, and the appellant would only be guilty of voluntarily causing grievous hurt with a deadly weapon as the hurt caused was grievous and he must have known that by stabbing as he did he was likely to cause grievous hurt. The conviction for murder is therefore set aside and the appellant is convicted under Section 326 of the Indian Penal Code.

5. As regards sentence the altercation was not premeditated and having regard to all the circumstances the appellant is sentenced to rigorous imprisonment for three years.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com