

In Re: Kalli Koravan

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Court : Chennai

Decided On : Nov-19-1937

Reported in : AIR1938Mad464; (1938)1MLJ234

Appellant : In Re: Kalli Koravan

Judgement :

Horwill, J.

1. That the offence complained of was committed there can be no doubt, but the only evidence connecting the accused with the offence was that of P.W. 3, who is undoubtedly an habitual receiver of stolen property.

2. The learned Sessions Judge in charging the Jury said:

Gentlemen, the evidence of P.W. 3, which alone connects the accused with the crime, appears to show that she is not as innocent as she pretends. It is by no means unlikely that she is the receiver of the stolen property.

It is for you to see whether her evidence can be believed when she says that she did not know that M. Os. Nos. 2 to 5 were stolen when the accused pledged them with her. If she had received stolen property knowing them to be stolen, she would certainly not own it here. But however, it is for you to see how far you should discredit her evidence regarding the fact that she received the properties from the accused.

If you, Gentlemen, do not believe her evidence, then there is nothing to connect the accused with these properties; and you will have to find him not guilty. But, if you feel that she is speaking the truth when she says that the accused pledged the vessels with her, then in the absence, of a satisfactory explanation on the part of the accused as to how he came by them, it is open to you to find that he is guilty, in paragraphs 12 and 13 of the lower Court's judgment.

3. This statement, although correct, did not, I think, point out with sufficient force, the unsafety of relying on her evidence; for her position was very little different from that of an accomplice. The learned Sessions Judge then pointed out to the Jury that the absconding of the accused was a point against him, although it appears in doubt whether he was not absconding even before the offence was committed.

4. It is with some reluctance that I describe the above as a misdirection; but I am justified in my opinion by the remarks of the learned Judge who admitted the appeal and who expressed a like opinion.

5. The appeal is accordingly allowed and the conviction and sentence set aside, and the appellant ordered to be set at liberty.

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