

The Queen Vs. Boya Linga and ors.

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Court : Chennai

Decided On : Jul-11-1882

Reported in : (1882)ILR5Mad268

Judge : Kernan and ;Muttusami Ayyar, JJ.

Appellant : The Queen

Respondent : Boya Linga and ors.

Judgement :

1. The three accused were convicted before the Village Magistrate of Ramasagur under Regulation XI of 1816 of theft of a sheep valued at 14 annas, and were sentenced, the first accused to pay a fine of 6 annas, and the second and third 4 annas each; in default, all to suffer two hours' imprisonment. The fines were collected and paid to the complainant as compensation.

2. The case has been referred to the High Court on the ground that sheep-stealing is not an offence cognizable by a Village Magistrate within the meaning of Regulation IV of 1821, Section 6, paragraph I, although the value of the sheep may be less than a rupee, and that it cannot be considered a petty theft; also that the punishment awarded is entirely inadequate to meet the commission of such offences.

3. The value of the sheep is 14 annas, and we see nothing in the language of Section 6, paragraph I, Regulation IV of 1821, to hold that sheep-stealing can in

no case be treated as petty theft. But Section VI, Regulation IV of 1821 extends to petty thefts the penalty prescribed by Clause 1, Section 10, Regulation XI of 1816, which is limited to confinement in the village choultry for not more than twelve hours or in the stocks for a time not exceeding six hours.

4. The Magistrate had jurisdiction to try the accused, as the theft was not attended with aggravated circumstances, nor do the accused appear to be persons of notoriously bad character; but he had not power to fine the accused. His power of punishment does not go beyond imprisonment in the choultry or in the stocks.

5. The sentence of fine is set aside, and, if recovered, the fine is to be refunded.

6. We will not add any punishment, as the Village Magistrate considered the imprisonment undergone before trial was sufficient.

7. Ordered accordingly.

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