

**In Re: Oomayan**

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**SooperKanoon Citation :** [sooperkanoon.com/781163](http://sooperkanoon.com/781163)

**Court :** Chennai

**Decided On :** Mar-18-1964

**Reported in :** 1966CriLJ482

**Judge :** Ramakrishnan, J.

**Appellant :** In Re: Oomayan

**Judgement :**

ORDER

**Ramakrishnan, J.**

1. This case has come up before me on a reference by the District Magistrate under Section 341, Cr. P.C. on the ground that the accused was a deaf mute who did not understand a part of the proceedings, A reference to the records shows that there was a qualified deaf and dumb interpreter who successfully interpreted the crucial points of the case to the accused who also cross-examined the witnesses on the said crucial points. The charge against the accused was one of illicit transport of arrack. When P. W. 1, the head constable was cross-examined, the accused elicited from him : 'It is not true to say that the accused was washing clothes at the river bed and that he did not carry contraband'. Similarly with regard to P, W. 2, the accused elicited in cross examination.

It is not true to say that the accused did not carry contraband and that the case is foisted. It is not true to say that the accused was washing clothes in he river and

that he was called and brought.

In answers to questions put to him under Section 342 Cri. P.C. the accused stated that he did not transport arrack.

2. However the circumstances which led to this reference can be stated in the words of the District Magistrate who forwarded the reference made by the Sub-Magistrate:

When the Sub-Magistrate was asked to furnish the grounds on which he based the opinion, he states that the witnesses deposed that the occurrence was about 80 yards north of the bridge having five spans and on the eastern side of the railway line in Kansalpeth, that however much the interpreter tried to explain the evidence by making signs about the train passing, the railway line and the bridge, the exact location could not be made to be understood by the accused as the railway line runs for a considerable length in Vellore town and as there are several bridges across the railway line, and that though a fairly good portion of the evidence has been made to be understood by the accused he is of opinion that the evidence has not been made to be understood completely.

3. It appears to me, on a careful consideration of the argument of learned Public Prosecutor and the perusal of the records, that this is a case where the accused understood with the help of the deaf and dumb interpreter, the crucial points of the evidence on the side of the prosecution) which related to the commission of the offence, and that the failure of the deaf and dumb interpreter to convey the gist of the evidence against him related to a collateral matter, which did not have anything to do with the offence with which he was charged. I am of the opinion] that in the circumstances, the conviction of the! accused by the Sub-Magistrate has to be confirmed. Seeing that the accused has been in remand from December 1963 and also considering his physical handicap, I am of the opinion that a short period of two week's R. I. will be adequate to meet the requirements of the case. The accused is sentenced accordingly. The criminal revision case on the reference is ordered accordingly.

