

In Re: Rama Naicker

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Court : Chennai

Decided On : Jan-22-1912

Reported in : 13Ind.Cas.471; (1912)22MLJ355

Appellant : In Re: Rama Naicker

Judgement :

1. There is no provision of the Code of Criminal Procedure which empowers a Judge to question the jury as to their reasons for an unanimous verdict when there is nothing ambiguous in the verdict itself and no uncertainty in the minds of the jury themselves regarding it. Section 303 limits the power of the Judge to the asking of such questions as may be necessary to ascertain what their verdict is. The view of the scope of Section 303 is clear from its language, and is in accordance with the decision in Emperor v. Kondiba I.L.R.(1904) 28 Bom.412. In the present case there was no doubt as to what the verdict of the jury was, viz., a unanimous verdict of not guilty. The Judge had no power to question them as to their reasons for this verdict. It was this questioning and the conversation which then followed which led two of the Jury to say they had been misled as to some of the evidence by the notes of the foreman and that they would like to reconsider the case with the result that the jury unanimously brought in a verdict exactly the opposite to that previously given. We do not think that this is a case in which it can be said that a wrong verdict was 'delivered ' by accident or mistake " within the meaning of Section 304, Cr.P.C. To hold that the section could be invoked to legalise the procedure followed by the Sessions Judge in this case would render ineffective the

limitation imposed by the legislature in Section 303 on the Judge's power to interrogate the jury. We must, therefore, set aside all proceedings taken on the delivery of the jury's first verdict, and direct the Sessions Judge to retry the case from that point in accordance with law. It will be open to him either to accept that verdict or to refer the case under Section 307, Cr.P.C., if he considers the latter course necessary for the ends of justice.

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