

In Re: Vellai Mudali

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SooperKanoon Citation : sooperkanoon.com/784347

Court : Chennai

Decided On : Nov-01-1946

Reported in : AIR1947Mad193; (1946)2MLJ428

Appellant : In Re: Vellai Mudali

Judgement :

ORDER

Yahya Ali, J.

1. This case was taken up by this Court on a perusal of the Calendar and notice was given to the Public Prosecutor and the accused. The accused is not represented.

2. The accused was convicted by the Assistant Sessions Judge of Coimbatore under Section 496 of the Indian Penal Code for dishonestly or fraudulently going through the ceremony of being married, without lawful marriage, and was sentenced to rigorous imprisonment for one year. The case against him was that on 31st January, 1946, at about 6 p.m. when the girl, P.W. 2, was returning from her father's house with a head-load of fuel the accused seized her, pushed her down and tied a tali round her neck and then let her go. He had intended to marry her but he was rejected and she was about to be married to somebody else. He committed the act apparently to spite the girl and her parents. The facts were not seriously questioned by the accused but the question to be considered is whether

even on the showing of the prosecution an offence has been made out under Section 496 of the Code. I am definitely of the opinion that the act of the accused in tying the tali round the neck of P.W. 2 in those circumstances does not amount to going through the ceremony of being married, knowing that he is not thereby lawfully married within the meaning of Section 496 of the Code. The accused must be presumed to have known full well that according to the custom of the community that act did not constitute a ceremony of being married and there is no point in holding that by doing so he went through such a ceremony, knowing that he is not thereby lawfully married. The conviction cannot be sustained and is therefore set aside. The accused is directed to be set at liberty.

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