

In Re: Mulimayandi thevan and ors.

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SooperKanoon Citation : sooperkanoon.com/788051

Court : Chennai

Decided On : Aug-07-1923

Reported in : (1923)45MLJ845

Appellant : In Re: Mulimayandi thevan and ors.

Judgement :

1. This is an appeal against the conviction of the appellants by the Sessions Judge of Trichinopoly with a jury, for dacoity under Section 395 I.P.C. The conviction being by a Jury, we are not entitled to canvass the case on the evidence and we must accept their verdict if there is no misdirection. It is however suggested that the Jury had been misdirected on two points and were thus misled and prejudiced against the appellants. The first point taken is that no reference was made by the Judge to the defence witnesses. There was one defence witness called, it is true, but all that he said was that the 2nd accused is a man of some property worth about Rs. 7,000. We do not think that the omission to bring this fact to the notice of the Jury can be treated as at all material in this case. It does not touch the question of evidence as regards dacoity.

2. The second point taken is that the learned Judge should not have admitted in evidence all the statements made by certain of the panchayatdars that some of these accused made confessional statements before them. The learned Judge no doubt admitted these statements in evidence but in his charge in para. 7 he distinctly told the jury that they should not take into consideration these confessions at all as they were not reliable. He also held that the confession made

to one of the panchayatdars examined as P.W. 27 was inadmissible in evidence as P.W. 27 seems to have told the accused that he would be let off and thereby induced him to make the confession. In the first place we are not satisfied that the panchayatdars were persons in authority over the accused at all and that the confessions made to these panchayatdars could properly be excluded from the evidence on that ground. The question as to the authority of the panchayatdars was considered in *Emperor v. Fernand* 4 Bom. L.R. 785. It was held by the Bombay High Court that they could not be considered to be persons in authority within the meaning of section of the Indian Evidence Act. We concur with that view. considering the nature of the functions of these panchayatdars, they are practically private detectives helping the police in finding out the criminals. They cannot be treated as men having any authority over the accused. That being so, we think that the confessions made were strictly admissible in evidence. As the learned Judge has himself told the Jury to exclude from their consideration these confessional statements, even if we suppose that there was a mistake in admitting them, that would not be a very material mistake after the Jury had been warned not to take the matter into consideration. We therefore think that there was no material mistake of law or misdirection in the Charge.

3. We confirm the conviction and the sentence which are not excessive. The appeal is dismissed.