

Public Prosecutor Vs. Kanniappan

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Court : Chennai

Decided On : Nov-19-1954

Reported in : AIR1955Mad424; 1955CriLJ1080

Judge : Balakrishna Ayyar, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 330 and 511; [Code of Criminal Procedure \(CrPC\), 1898](#) - Sections 439

Appeal No. : Criminal Revn. Case No. 134 of 1954 and Criminal Revn. Petn. No. 126 of 1954

Appellant : Public Prosecutor

Respondent : Kanniappan

Advocate for Pet/Ap. : Public Prosecutor

Judgement :

ORDER

Balakrishna Ayyar, J.

1. The Assistant Sessions Judge of North Arcot convicted one Kanniappan of an offence under Section 330 read with Section 511, I. P. C. and sentenced him to imprisonment till the rising of the Court and to pay a fine of Rs. 25/-. The learned Public Prosecutor has moved for an enhancement of the sentence. The convicted

person has not appeared.

2. The facts are perfectly clear: A boy Periaswami was suspected of having committed theft in the house of Kanniappan the first accused, When questioned by Kanniappan Periaswami denied knowledge of the theft whereupon Kanniappan took him towards the police station. On the way they had to pass the house of accused 2, who joined them. Accused 1 and 2 tried to extort a confession from the boy. With that end they brought together both his hands, wrapped pieces of cloth round the hands, poured kerosene oil over the wrapping and set fire to it. Naturally, the boy's hands were burnt. The injuries were such that the boy had to remain as an in-patient in the hospital for 12 days. The learned Assistant Sessions Judge acquitted accused 2, and in the view that the act of accused 1 amounted only to an attempt he convicted him under Section 330 read with Section 511, I. P. C. as already stated.

3. In taking this view, the learned Assistant Sessions Judge was going as far as he possibly could in favour of accused 1. But the sentence imposed upon him is grossly disproportionate to the gravity of the case. Under Section 330, I. P. C. the imposition of a term of imprisonment is obligatory, Now, when the statute says that for an offence the offender shall be imprisoned, it normally means that he should be sent to jail. To impose a sentence of imprisonment till the rising of the Court--and I have no doubt about it at all--is an evasion of the statutory provision and such an evasion would be justified only in very exceptional circumstances, as for instance, where the offence is found to be very severely technical or where there are extenuating circumstances possessing unusual force. None such exists in this case. The boy was an in-patient in the hospital for 12 days and the injuries might very easily have been much more serious; he might have been easily crippled for life. The Assistant Sessions Judge in imposing the grossly inadequate sentence that he did was betraying weakness and sloppy sentimentalism. Those who are called upon to administer the criminal law must bear in mind that they have a duty not merely to the individual accused before them, but also to the State and to the community at large. If I had been trying the case, I would have imposed a sentence of anything upto two years' rigorous imprisonment. The learned Public Prosecutor pointed out that considerable time had elapsed since the offence was

committed and more than one year after the Assistant Sessions Judge pronounced his judgment. This last is a complicating factor.

4. In view of that, I enhance the sentence imposed by the Assistant Sessions Judge to one year's rigorous imprisonment. The fine imposed will stand.

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