

In Re: Madappa Kone

In Re: Madappa Kone

SooperKanoon Citation : sooperkanoon.com/793294

Court : Chennai

Decided On : Oct-13-1908

Reported in : 4Ind.Cas.1127

Judge : Munro and ;Pinhey, JJ.

Appellant : In Re: Madappa Kone

Judgement :

1. We are of opinion that the conviction cannot be sustained. As pointed out by the Sessions Judge, the motive suggested for the crime is most inadequate. On the other hand there are reasons why Madappa Kone may have been falsely accused.

2. The throat of the deceased was apparently cut as he lay asleep by a single sweep of the knife after which the murderer fled. We do not believe that the Prosecution 1st witness could have seen the murderer so as to identify him. The moon cannot have given much light as it only rose at 2 A.M. We think it is equally probable that the deceased was unaware who his assailant really was. We agree with the first assessor that the alleged statement of the deceased to the village Munsif Ex. B. is most suspicious. The Curnam who recorded it was not examined. Prosecution witnesses Nos. 2 and 3, though they signed it did not hear what the deceased said. Both are relations of the Prosecution 1st witness. Several persons assembled when the crime was first discovered but no independent witness has been cited to prove that the Prosecution first witness named the accused as the

murderer at the outset. The hour at which the Sub-Magistrate received the Village Munsif's report Ex. C 1. i.e., 10-45 A.M. raises the suspicion that it was not despatched at the hour it is said to have been. It seems probable that Exhs. C. and C1 were really prepared after the arrival of the police. In that case it is not improbable that the murderer being unknown, a case was prepared to implicate an enemy. The statement subsequently made by the deceased to the Sub-Magistrate in the hospital at a much later hour may have been prompted. The Sub-Magistrate who recorded it was not examined. Cases are not uncommon in this country of false depositions being made by dying men.

3. Apart from the evidence of the Prosecution first witness and the two statements of the deceased there is no evidence to implicate the accused.

4. The conviction and sentence must be set aside and the accused set at liberty.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com