

In Re: Kamma Aswathan and

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SooperKanoon Citation : sooperkanoon.com/793870

Court : Chennai

Decided On : Oct-04-1909

Reported in : 4Ind.Cas.1071

Judge : Munro and ;Abdur Rahim, JJ.

Appellant : In Re: Kamma Aswathan and ;gajulu Thimmappa

Judgement :

1. The Judge did not explain to the jury what is meant by theft as he was bound to do under Section 297 of the Criminal Procedure Code. Further the questions which he left to the jury, viz., (1) was the 1st prisoner in the field with honest or dishonest intentions? (2) was the 2nd prisoner there and Was he recognized by the witnesses who say they recognized him?, were not sufficient even if answered unfavourably to the accused to justify a conviction, for theft.

2. A further question arose viz., whether the accused has dishonestly removed the chalum. We set aside the verdict of the jury and direct a re-trial according to law. The accused will remain on the bail already granted in Criminal Miscellaneous Petition No. 190 of 1909 till the disposal of the case.