

In Re: Oomayan Alias Gnanaprakasam

In Re: Oomayan Alias Gnanaprakasam

SooperKanoon Citation : sooperkanoon.com/796427

Court : Chennai

Decided On : Feb-01-1950

Reported in : AIR1950Mad577

Judge : Govinda Menon ; and Basheer Ahmed Sayeed, JJ.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 418

Appeal No. : Criminal Appeal No. 581 of 1949

Appellant : In Re: Oomayan Alias Gnanaprakasam

Advocate for Pet/Ap. : Government Prosecutor for Public Prosecutor

Disposition : Appeal dismissed

Judgement :

Govinda Menon, J.

1. The appellant was convicted as a result of unanimous verdict of a jury under Section 397, Penal Code, and sentenced to seven years rigorous imprisonment by the learned Sessions Judge of South Arcot division. When his jail appeal was perused by our learned brother Mack J. he made the following note:

'I think evidence in this case should be examined. There are some curious features about the case :

- (1) admission of P. W. 5 that accused was on bad terms with family;
- (2) identification in dark ;
- (3) apparent monopoly of violent activity by accused in this dacoity.

Section 397 makes seven years rigorous imprisonment compulsory.'

The learned Judge issued notice to the Public Prosecutor and directed that the matter may be heard by a Bench in order that the evidence may be gone into in the light of the note made by him.

2. It seems to us that in view of Section 418, Criminal P. C., it is not competent to this Court to go into question of fact in an appeal against a conviction as a result of a verdict by a jury. The learned Public Prosecutor has not been able to suggest any misdirection or any instance of non-direction either; and we ourselves, having per. used the charge to the jury, are unable to find any instance either of misdirection or non-direction. In such circumstances, it seems to us that the points contained in the note of the learned Judge which according to him, were curious features, namely, the admission of P. W. 5 that the accused was on bad terms with his family, the identification in the dark and the apparent monopoly of violent activity by accused in this dacoity are matters which are not within the purview of this Court to enquire into in an appeal. Apart from Section 418, there is no provision of law which would permit a Court to go into questions of fact. Even if the learned Sessions Judge had disagreed with the verdict of the jury and referred the case to the High Court under Section 307, Criminal P. C., still it is not open to this Court to weigh the evidence and find out whether the verdict of the jury, is justified on the evidence or not.

3. Their Lordships of the Privy Council in *Ramanugrah Singh v. King-Emperor* observed as follows :

'The powers of the High Court in dealing with the reference are contained in Sub-section (3). It may exercise any of the powers which it might exercise upon an appeal, and this includes the power to call fresh evidence conferred by Section 428. The Court must consider the whole case and give due weight to the opinions

of the Sessions Judge and jury, and then acquit or convict the accused. In their Lordships' view the paramount consideration in the High Court must be whether the ends of justice require that the verdict of the jury should be set aside. In general, if the evidence is such that it can properly support a verdict either of guilty or not guilty, according to the view taken of it by the trial Court, and if the jury take one view of the evidence and the Judge thinks that they should have taken the other, the view of the jury must prevail, since they are the Judges of fact. In such a case a reference is not justified, and it is only by accepting their view that the High Court can give due weight to the opinion of the jury. If however, the High Court considers that upon the evidence no reasonable body of men could have reached the conclusion arrived at by the jury, then the reference was justified and the ends of justice require that the verdict be disregarded.' It cannot be said that in this case no reasonable body of men would have arrived at the conclusion which was arrived at by the jury in the case. We are therefore of the opinion that it is not open to this Court to examine the evidence and find out whether the conviction was justified or not. The powers of the Court under Section 307 are certainly wider than those under Sections 418 and even under Section 307 those powers have been circumscribed by their Lordships of the Judicial Committee in the case referred to above. That case has been subsequently followed in *Thiagaraja, Bhagavathar v. Emperor*, where we find similar observations.

4. In these circumstances we are of the opinion that there is no occasion for any interference with the decision of the lower Court and since the sentence awarded is the minimum allowed under Section 397 Penal Code, the appeal is dismissed.

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