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Court : Chennai

Decided On : Mar-09-1909

Reported in : 1Ind.Cas.546

Judge : Benson and ;Sankaran Nair, JJ.

Appellant : Sinna Tevan Alias Sinna Karrupan Tevan and ors.

Respondent : Emperor

Judgement :

1. The point urged before us in appeal is that there is a misdirection in the charge of the Sessions Judge to the jury in that he did not instruct the jury with sufficient clearness that before he can find that there was a dacoity, they must be satisfied that there were at least five persons taking part in the offence, and that if any of those charged are acquitted they must be excluded in considering whether the evidence proves that the number of offenders was not less than five.

2. Seven offenders were originally charged. Of these one was acquitted at the former trial, two were discharged by the Magistrate subsequently and one was acquitted at the present trial. But there is nothing to show that the jury took any account of these as going to make up the number of five offenders. The Judge did explain the definition of dacoity and, in fact, explained it in a sense unduly favourable to the accused as regards the question of the number required to convert a robbery into a dacoity in that he told them that dacoity is robbery

committed by more than five persons, whereas he should have said by five or more persons. We do not think that there is any reason to hold that there is a misdirection which prejudiced the accused nor do we regard the sentences as too severe.

3. We, therefore, dismiss the appeal.

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