

In Re: Chinnathambi and ors.

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Court : Chennai

Decided On : Sep-17-1941

Reported in : (1942)2MLJ579

Appellant : In Re: Chinnathambi and ors.

Judgement :

ORDER

Horwill, J.

1. The petitioners were convicted by the Stationary Sub-Magistrate of Gudiyattam in C.C. No. 817 of 1941. They appealed to the Joint Magistrate of Tirupathur, who released them on bail pending the appeal. On the date to which the appeal was posted for hearing neither the petitioners nor their counsel were present. The Joint Magistrate thereupon delivered what he described as a judgment. After saying that they had been convicted under certain sections and had been sentenced to certain terms of imprisonment, he proceeded:

Both the appellants are absent when called. Their vakil too is absent and has not even submitted an application for adjournment. I have carefully perused the case record, and do not find any grounds to interfere with the judgment of the lower Court. The appeal is dismissed.

The above order would have been unexceptionable if the appeal had been dismissed in limine under Section 421 of the Criminal Procedure Code; but it is

clear that the appeal was not dismissed under that section. Notice went to the Public Prosecutor and the petitioners were released on bail pending the appeal. It was therefore disposed of under Section 424 of the Criminal Procedure Code, and it is there laid down that as far as the judgment in appeal is concerned the rules contained in Chapter XXVI apply. Section 367 (1) which is in Chapter XXVI requires that

Every such judgment shall...be written...and shall contain the point or points for determination, the decision therein, and the reasons for the decision.

It is thus seen that it is necessary for the appellate tribunal, as well as the trial Court, to give its reasons for coming to the conclusion it does. The Joint Magistrate not having done that, his order is invalid.

2. The petition is therefore allowed and the appeal remanded to the Joint Magistrate of Tirupathur for fresh disposal after giving due notice to the Crown and to the petitioners. The appellants will be allowed to remain on bail on the same terms as before.

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