

In Re: Venkata Subbayya

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Court : Chennai

Decided On : Feb-26-1942

Reported in : AIR1942Mad550; (1942)1MLJ595

Appellant : In Re: Venkata Subbayya

Judgement :

ORDER

Horwill, J.

1. The prosecution case, which was accepted by the Joint Magistrate, is that three accused went to the house of P.W. 1 and attacked him. The second accused struck him on the mouth with a stone, knocking out six teeth and cutting his upper lip right through. The first accused struck P.W. 1 with a stick. while the third accused caught hold of his hair and punched him. On this evidence the Joint Magistrate convicted the first and third accused under Section 323, Indian Penal Code and the second accused under Section 325, Indian Penal Code. He sentenced the first and the third accused to a fine of Rs. 10 and the second accused to Rs. 25. The District Magistrate has referred the matter to this Court because the sentence imposed on the second accused is not a legal one.

2. I find no reason to think that the prosecution story is not true. If the second accused threw a stone at the face of P.W. 1 with a force sufficient to cut his upper lip and knock out six teeth, he must be presumed to have intended to cause such

injury. He was therefore rightly convicted under Section 325, Indian Penal Code.

3. Section 325, requires that a person who is convicted of causing grievous hurt shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine. The wording of this section makes it clear that there must be a sentence of imprisonment, whether a fine is imposed or not. Even if Section 325, were not so worded, it seems clear to me that the sentence of Rs. 25, was an insufficient punishment for an injury which deprived P.W. 1 of six teeth and permanently disfigured his face. The sentence imposed on the second accused is therefore changed to one of rigorous imprisonment for two months and a fine of Rs. 25. The order of compensation will stand.

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