

In Re: Giddigadu

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Court : Chennai

Decided On : Feb-23-1909

Reported in : 1Ind.Cas.867a

Judge : Ralph Benson and ;Sankaran Nair, JJ.

Appellant : In Re: Giddigadu

Judgement :

1. In this case there is absolutely no evidence against this appellant (the 4th accused), except the confessions of his co-accused which implicate himself also. The Sessions Judge in his charge to the jury has instructed them: 'it is a rule of law that where a person confesses a crime and implicates himself, if he implicates the persons who have been tried along with him to the same extent as he implicates himself, then if you accept his statement as being true and voluntarily given as against himself, you can safely accept it as true as against the other persons.' He gave no caution as to the necessity in such a case for corroboration as against the person implicated. We think that there was a plain misdirection and that it materially prejudiced the accused. The rule of law is contained in Section 30 of the Indian Evidence Act and it does not go at all so far as the Sessions Judge states. It merely says, When more persons than one are being tried jointly for the same offence and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such, confession as against such other person, as well as against the person who makes such confession.'

2. The wording of the section shows that such a confession is merely to be an element in the consideration, of all the facts of the case, but does not do away with the necessity for other evidence. The statement of a co-accused is of less probative force than the evidence of an accomplice, for it is affected by all the inherent weakness of such evidence, and it cannot be tested, as such evidence can, by cross-examination nor is it given under the sanction of an oath. It is a general rule of practice, that it is not safe to convict upon the uncorroborated evidence of an accomplice and the confession of a co-accused is on an even lower footing. Conviction on such a confession alone has long been held to be a case of No evidence and bad in law. Proceedings, 24th January 1873 M.H.C.R. 15, Reg. v. Amhigara Hulagu 1 M.k 163, Empress v. Ashootosh Chuckerbutty 4 C.n 483 The Sessions Judge should have directed the jury accordingly and told them acquit the 4th accused.

3. We set aside his conviction as bad in law, and direct that he may be acquitted.

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