

In Re: Retta Koravan and ors.

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Court : Chennai

Decided On : Mar-25-1957

Reported in : AIR1957Mad714; 1957CriLJ1284

Judge : Somasundaram, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 224

Appeal No. : Criminal Revn. No. 1045 of 1956 and Criminal Revn. Petn. No. 979 of 1956

Appellant : In Re: Retta Koravan and ors.

Advocate for Def. : V.V. Radhakrishnan, Adv. for Public Prosecutor

Advocate for Pet/Ap. : R. Santanam and ;T.S. Arunachalam, Adv.

Judgement :

ORDER

Somasundaram, J.

1. Accused 1 to 3, 5 and 6 are petitioners. Accused 1 and 2 were convicted by the Additional First Class Magistrate (II). Madurai for an offence under Section 224 IPC and each of them , was sentenced to R.I. for one year. Accused 3, 5 and 6 were convicted under Sections 147 and 225 IPC and each of them was sentenced to RI for one year under each count, the sentences to run concurrently . On appeal

the Sessions Judge of Madurai set - aside the conviction and sentence of accused 3, 5 and 6 under Section 147 IPC and confirmed the conviction and sentences of accused 1 and 2 under Section 224 IPC and of accused 3, 5 and 6 under Section 225 IPC.

2. In connection with a prohibition raid, accused 1 and 2 were arrested, handcuffed and taken by the police. Two other Koravars also were handcuffed and taken by the police. While those persons were being taken to the police station, on the way accused 3 to 6 and some others came in a body and demanded the release of accused 1 and 2 and the other two Koravars. The police refused to release them. Thereupon the police party was stoned by accused 3 to 6 and others and accused 1 and 2 were forcibly taken away. But their attempt to take away the other two Koravars failed. There is no doubt that accused 3 to 6 along with others stoned the police officers, caused injuries to them and rescued accused 1 and 2 & also threatened to do harm to the police officers. So far as accused 1 and 2 are concerned, there is no evidence that they themselves voluntarily escaped from the custody of the police. They were forcibly taken away by accused 3 to 6 & others. In these circumstances, as pointed out by the Chief Justice of the Orissa High Court in a Bench decision consisting of himself and Jaganmohan Das J. King Emperor v. Lachhu Kamara : AIR1950 Ori62 it would amount to escape from lawful custody. They observed:

'If he was forcibly snatched away from the custody, it cannot be said he intentionally escaped from the custody. The key word in Section 224 is 'intentionally'.

This decision will apply so far as accused 1 and 2 are concerned so the conviction and sentence under Section 224 IPC in respect of accused 1 and 2 are set aside and they are acquitted.

3. So far as accused 3, 5 and 6 are concerned, they behaved not only in an unruly manner but also in a manner to deter public servants from discharging their duties. An offence of this kind must be severely dealt with. I therefore confirm their convictions and sentences under Section 225 IPC. The petition so far as accused 3, 5 and 6 are concerned is dismissed, while in respect of accused 1 and 2

2 isallowed.

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