

In Re: Mathi Venkanna

In Re: Mathi Venkanna

SooperKanoon Citation : sooperkanoon.com/803938

Court : Chennai

Decided On : Nov-15-1922

Reported in : 71Ind.Cas.242

Judge : Wallace, J.

Appellant : In Re: Mathi Venkanna

Judgement :

ORDER

Wallace, J.

1. The only point raised in this petition is that the conviction under Sections 143 and 147 of the Indian Penal Code was illegal, since the offence under Section 447, Indian Penal Code, was compounded.

2. It appears that on 5th July 1920 a compromise petition was put into the lower Court signed by the first petitioner (first accused) and prosecution witnesses Nos. 1 and 2, P.W. No. 1 being the alleged owner of the field on which the alleged trespass took place. The case was being prosecuted by the Police and the compromise petition was rejected by the lower Court as the offence under Section 143 of the Indian Penal Code is not compoundable.

3. The common object charged against the accused as members of an unlawful assembly is the criminal trespass aforesaid. Petitioner contends that, since the

parties had a legal right to compound that trespass, such a composition has the effect of annulling the common object charged and, therefore, the charge under Section 143, Indian Penal Code, falls to the ground.

4. I am not prepared to support this contention. The essence of the offence under Section 143, Indian Penal Code, is the combination of several persons united in the purpose of committing a criminal offence and that purpose constitutes itself an offence distinct from the criminal offence which these persons agree and intend to commit. The compounding of one offence does not mean that the offence has not been committed; but that it has been committed, though the victim is willing either to forgive it or to accept some form of solatium as sufficient compensation for what he has suffered. The law allows P.W. No. 1 to so deal with the offence of criminal trespass, but not with the offence of five or more persons combining to effect that criminal trespass.

5. Petitioners refer me to the ruling quoted in *Basireddi v. Sheikh Khayrat Ali* 20 Ind. Cas. 618 : 17 C.W.N. 948 , but that ruling does not say that the composition of the offence of house trespass and grievous hurt in that case had the effect in law of compounding the offence of being members of an unlawful assembly, whose common object was the commission of those offences. It rather implies the opposite.

6. The petitioner's objection, therefore, fails. I dismiss this petition.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com