

In Re: Marana Goundan

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Court : Chennai

Decided On : Dec-17-1940

Reported in : AIR1941Mad560; (1941)1MLJ364

Appellant : In Re: Marana Goundan

Judgement :

Lakshmana Rao, J.

1. The appellant has been convicted under Section 304 (2) of the Indian Penal Code for causing the death of one Karuppa Chuckli by kicking him on the abdomen and sentenced to rigorous imprisonment for 7 years.
2. The deceased owed one anna to the appellant and the latter demanded repayment. The deceased promised to pay later and the appellant, is stated to have kicked him twice on the abdomen remarking 'How long am I to wait'. The deceased collapsed and died soon after.
3. The cause of death was shock due to the kicking and P. W. 7 a disinterested witness not to mention P. W. 4 the widow speak to the alleged kicking. P. W. 5 was informed about it soon after, and the story of the appellant that he merely pushed the deceased and went away is incredible. But there was no mark of injury external or internal, and it is difficult to hold that the appellant intended or knew that by kicking on the abdomen as he did he was likely to endanger life. The conviction under Section 304 (2), Indian Penal Code, is therefore unsustainable

and as rightly conceded the conviction can only be under Section 323, Indian Penal Code. The conviction of the appellant is therefore altered to one under Section 323, Indian Penal Code and he is sentenced to rigorous imprisonment for one year.

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