

In Re: Kuttayan Alias Nambi thevar

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Court : Chennai

Decided On : Feb-16-1959

Reported in : 1960CriLJ85

Judge : Somasundaram and; Ramaswami, JJ.

Appellant : In Re: Kuttayan Alias Nambi thevar

Judgement :

ORDER

Ramaswami, J.

1. This appeal is preferred against the conviction and sentence by the learned Sessions Judge of Tirunelveli Dn. in S.C. No. 37 of 1958. The accused has been convicted and sentenced to imprisonment for life for the murder of his wife, the deceased Lakshmi.

2. The deceased was the daughter of P.W. 7 and was married to the accused in Vaikasi 1957. The parties were related even before marriage. The accused is the nephew of P.W. 7, being his sister's son. This marriage had unfortunately not proved a success. The accused began to suspect the faithfulness of his wife. A month prior to the occurrence while the accused was an inpatient in the hospital, the deceased went to P.W. 2's house at about dusk time. P.W. 1 got information of it and took with her two other women and went to P.W. 2's house and there they saw P.W. 2 lying on a cot and the deceased sitting by his side and talking. P.W. 1

is a person known to both the accused and the deceased, being a resident of the same place.

P.W. 2 is also a resident of the same place who knows both the accused and the deceased. P.W. 2 was suspected as the person with whom the deceased had an intrigue. P.W. 1 protested and asked the deceased to leave the place. But the deceased refused. The accused after returning from the hospital, assaulted and cut P.W. 2 on account of the latter carrying on an intrigue with the deceased. There was a criminal case against the accused and P.W. 12. The accused has been subsequently convicted by the Additional First Class Magistrate, Tirunelveli.

3. In regard to what happened on the date of occurrence, 8-1-1958, we have got the account given by P.W. 12. On 7-1-1958, at about 121 noon the cutting of P.W. 2 took place. P.W. 12 says that the accused took him saying that they should go and warn P.W. 2, who was carrying on an intrigue with his wife. P, W. 12 also says that when he prevented the accused from cutting P. W; E, he sustained an injury on his right thumb. They then went to ThekkuKadu to avoid being arrested and came back to accused's house at about 10 p. m. and stayed there that night. The deceased was sleeping in a portion of the house. That night when this P.W. 12 woke up, he found the accused and his father missing. They came back at 2 a.m. To P, W. 12's enquiry about that absence, they gave no reply,

4. Then at about 4-30 a. m. the accused woke up the deceased saying that accused, the deceased and P.W. 12 should go to V. K. Puram to avoid being arrested by the police, as apparently by that time information must have been given to the police about the cutting of P.W. 2 by the accused. Though the accused and P.W. 12 alone participated in the cutting, the wife of the accused could also be involved, because she was the cause of that cutting. That is why the accused told his wife to go with him and P.W. 12 and lie low to prevent the police from arresting them and interrogating the deceased, the wife of the accused. While they were going along the road leading to Amba-samudram, they met P.Ws. 4 and 5 to the west of the Nadar rice mill, but they did not enter into any conversation and passed by.

Near Cheranmahadevi they took a cross/ country track leading to Manimuther as the accused said that they could leave the deceased in the sister's house there. It is obvious that the accused must have induced the deceased to lie low in the house of her close relative to avoid being interrogated by the police, which would strengthen the case against him. That track passes through the Kolundumamamlai hills. After proceeding 100 feet through the foot of the hill, accused told P.W. 12 that he wanted to be alone with that deceased for sometime. P.W. 12 thought that they might like to have some conversation in privacy. Therefore, P.W. 12 stayed away at some distance. Five minutes later P.W. 12 heard the cry 'Annachi' (which means in these parts, brother).

The deceased used to call P, W. 12 Annachi, He ran there and saw the accused sitting on the top of the deceased and crushing her head with a stone, identified as M. O. 1. There were blood Stains on the accused's banian M, O. 4. P.W. 12 who was horrified cried out and the accused turned on him and started throttling him. So P.W. 12 extricated himself and made good his escape. Then he took a bus and went to VadaKarai and was hiding there. The police subsequently arrested him 8 days later and his statement was recorded by the Sub-Magistrate, Nanguneri, Under Section 164 Cri. P, C. We may complete this part of the information by stating that P.W. 12 identifies M. Os, 2 and 3 as the saree and blouse which the deceased was wearing at the time of her murder. In the criminal case launched by P, W. 2, P.W. 12 was acquitted and the accused was convicted, the judgment in that .case being Ex. P. 2.

5. The accused who was absconding after the commission of this murder, came to P.W. 6's house, five days prior to Pongal at about 6 p. m. The deceased is P.W. 6's husband's sister' daughter. He was found greatly agitated. On feeling questioned, the accused told P.W. 6 about his murdering the deceased. But P.W. 6 thought him to be highly imaginative and did not really believe that the accused would have murdered his wife. But by that time P.W. 7, the father of the deceased, came there. He asked his son-in-law what had brought him there. The son-in-law told the father-in-law that he had cut P.W. 3 and that he had come there to inform him.

It will be remembered that just before the accused had told P.W. 6 about his cutting P.W. 2 and murdering his wife, but that P.W. 6 did not believe him because he had stated that he) and P.W. 12 had committed the murder and that no one could discover the body even after six months, and which P.W. 6 put down as a tall story due to the extremely excited condition in which the accused was then. On P.W. 7 asking the accused about the deceased, which he would naturally do the accused replied that he came to the bus stand at Pathemadai with his wife, that he wanted to leave her with his father-in-law and that on reaching the bus-stand he found the deceased, who was coming with him missing,

Then P.W. 8, the brother of P.W. 7, came there. P.W. 7 naturally asked his brother to go with the accused and look for his missing daughter. Both of them boarded a bus but when the bus stopped near the railway station at Kalli daikurichi, P.W. 8 found that the accused had quietly slipped away. Therefore, P.W. 8 proceeded to Pathemadai, i. e., the place where the deceased was living with her husband and made a thorough search but no trace of the deceased was found. Therefore, he came back and gave this information to P, W, 7. P.W. 7 then ran to the police station and laid the complaint, Ex. P. 1, which was registered by the Head Constable P.W. 18 as crime No. 4 of 1958 as 'woman, missing.'

6. How the dead body of the deceased came to be discovered was in this wise. P.W. 9 was grazing the goats of Narayana Kone at the Kolun-dumamalai hills and in the course of the grazing the goats began to run scattered. Since there were jackals roaming in the hills, P.W. 9 ran to the) front. He saw the dead body of a woman with the head crushed lying there. The witness got thoroughly frightened and ran to the village, met P.Ws. 10 and 11 and informed them of what he had seen. This information reached P.W. 18 who had gone to Pathemadai and was staying there that night. On receiving this information at 7-30 a.m. P.W. 18 went to the hills with three persons and saw the body, which was identified by P.Ws. 7 and 8, as that of the deceased Lakshmi, the daughter of P.W. 7 and the wife of the accused.

P.W. 18 sent a report to the Sub-Inspector and made arrangements for guarding the dead body. The Sub-Inspector P.W. 19 came on 10-1-1958 and took up

investigation. He prepared the plan Ex. P. 7, held inquest from 12 noon to 2-30 p. m. and sent the dead body through P.W. 14 to the doctor P.W. 13, P.W. 12 was arrested by P.W. 18 and was examined by the Sub-Inspector on 17-1-1958. In the first instance P.W. 12 was arrayed as the second accused but on later investigation he was eliminated. The accused surrendered before the Sub-Inspector of Police, Ambasamudram, on 10-1-1958. The charge-sheet was laid on 9-2-1958.

7. P.W. 13 who held the autopsy found extensive injuries to the head with separation of the various fragments of the bones, vault and base of the skull. The dead body was in a state of decomposition. In the opinion of the doctor the deceased would have met with her death by her head being crushed by a stone like M. O. 1.

8. The blood stained banian M. O. 4 which has been identified by P.W. 16 as that of the accused was found to be stained with human blood.

9. The accused stated that it was true that he went with P.W. 12 to cut P.W. 2 on account of his suspicion that his wife was having illicit intimacy with P.W. 2, that he does not know anything concerning the death of his wife, that himself, P.W. 12 and the deceased did not start for V. K. Puram, that he did not meet P.Ws, 6 to 8 and give them information, that- he did not abscond from the bus stand as alleged by P.W. 8, that the banian M. O. 4 does not belong to him and that it is true that he was absconding and surrendered in the hurt case.

10. The accused did not examine any defence witnesses. On the evidence on record, it cannot be stated that the offence of murder has been brought home to this accused beyond reasonable doubt. We need not point out that in these grave offences the proofs must be as clear as noonday light. The two pieces of evidence which are sought to be relied upon for bringing home the offence of murder to this accused; are the evidence of P.W. 12 and the evidence of P.W. 6. P.W. 12 is undoubtedly an accomplice. In fact, in the first instance, the case was investigated against him as accused 2.

The evidence of P.W. 12 that it was the accused who crushed the deceased woman's head with M. O. 1 and that he stood at a distance of 150 feet and that when he interfered he was set upon by the accused and chased and that he made good his escape, does not ring true. It is certainly true that he was present at the scene where the deceased was murdered. But we cannot say that it was not P.W. 12 who was the principal offender and the accused was not accessory after the fact. On the testimony of P.W. 12 himself, he was charge-sheeted along with this accused for the cutting of P.W. 2. It is obvious that he was seen in the company of the deceased when she was last seen alive by P.Ws. 4 and 5 when going towards the western direction, at about or 5-30 a. m, P.W. 12 must have been going with the accused who must have taken his assistance for doing away with his wife.

P.W. 12 was arrested by the police 8 days later. He was hiding at Vadakarai. In his cross-examination he agrees that he did not inform anybody of the occurrence, that he did not tell the police when they examined him that the accused; wanted to be alone with the deceased, that he was standing at a distance that he heard the cry 'Annachi' of the deceased and that he saw the accused sitting on the deceased and crushing her head with a stone. In the court also he stated he got suspicion of the deceased's conduct with P.W. 2 only after the accused told him, that he protested against it, that he did not know that the deceased went to P.W. 2's house a month before the occurrence and that P.W. 1 and others brought her back.

He denied that he stated these things to the police. In the court he also stated that he was under the impression that the deceased brought disgrace to the family and that he has not stated to the Police that he told the accused that the deceased should be done away with. But it is found that he has mentioned these facts to the Sub-Inspector. He has also come forward later with the story that the accused throttled him by the neck and chased him for one furlong. In fact, on account of his statement recorded Under Section 164 Cr IPC being unreliable, he has not been taken as an approver.

Therefore beyond relying upon P.W. 12's statement which is corroborated by the other evidence that the accused must have been present at the scene and knew of

this murder full well, we cannot place any reliance on the other parts ∴ of his evidence proving that it was the accused - who crushed the head of the deceased with the stone M.O. 1 which incidentally was not found to be blood-stained, though probably it may be due to the fact that on account of exposure to inclement weather, the blood-stains might have got disintegrated. Consequently it is not possible to rest the conviction of the accused for murder on the evidence of P.W. 12.

11. The other piece of evidence is that of P.W. 6. But her evidence cannot be acted upon because even though she says that the accused told her that he had murdered his wife, she did not inform P.W. 7, the father of the deceased, who came there, of what the accused told her. Therefore, the offence of murder has not been brought home to this accused affirmatively and satisfactorily,

12. The evidence, however, clearly makes) out that the accused is guilty of the offence under the latter part of Section 201. IPC in that the prosecution has proved (1) the commission of an offence, (2) that the accused gave information, (3) that that information was false, (4) that he knew or believed it to be so; (5) that he knew or had' reason to believe the commission of the particular offence; and (6) that his intention was to screen the principal offender from legal punishment.

13. Before discussing the facts bringing this offence to the accused, we shall deal with the point of law raised by the learned advocate Mr. v. C. Srikumar appearing as amicus curiae. At our request the learned advocate Mr. G. Gopala-swami appeared along with Mr. V. C. Srikumar as amicus curiae. The point raised is that P.W. 7, the father-in-law of the accused, to whom the accused gave this false information is not 'the person' contemplated by Section 201 IPC rendering the informant culpable thereunder. At our request the learned Advocate General assisted us) on behalf of the State, We have had therefore the benefit of the able and lucid expositions of the learned Advocate General on behalf of the State and Mr. Gopalaswami and Mr. V. G, Sri kumar on behalf of the accused which we acknowledge with pleasure.

14. Chapter XI of the Indian Penal Code relates to false evidence and offences against public justice. The offences under this Chapter fall into two groups: (1)

Giving or fabricating false evidence (Ss 191 to 200); and (2) offences against public justice (Ss. 201 to 229).

15. The subject-matter of Sections 191 to 200 may be thus classified:

False evidence may be :

Given Sections 191 and 193;

Aggravated offences, Sections 194, 195.

Kindred offences:

(i) using evidence known to be false (S. 196), issuing or signing a false certificate (S. 197)

(ii) using such (S. 198)

(iii) making false statement in a declaration (S. 199).

(iv) using such a declaration (S. 200); Fabricated, Sections 192 and 193; Aggravated offences: Sections 194 and 195; Kindred offence : using evidence known to; be fabricated (S. 196).

Sections 201 to 229 fall under two groups, viz., Sections 201 to 203 on the one hand and Sections 204 to 229 on the other hand. Section 201 relates to the giving of false information with the intention of screening the offender and Sections 202 and 203 relate to the giving or omitting to give such information. There are three groups of Sections in the Indian Penal Code relating to the giving of information. Firstly, Sections 118 to 120 deal with concealment of design to commit an offence; secondly, Ss-. 176, 177, 181 and 182 deal with omission to give information and with giving of false information; and thirdly, Sections 201 to 203 deal with the giving of false information with the intention of screening the offender. Section 201 is intended to reach acts to which Sections 193 to 195 do not extend and not to include acts falling under those Sections. This Section 201 is an attempt to define the position known in English law as that of an accessory after the fact.

16. Section. 201 as just now mentioned presents a case of accession, after the fact.

An accessory after the fact' said Lord Hale, 'may be, where a person knowing a felony to have been committed, receives, relieves, comforts or assists the felon. Therefore to make an accessory ex post facto it is in the first place requisite that he should know of the felony committed. In the next place he must receive, relieve, comfort or assist him. And, generally any assistance whatever given to a felon to hinder his being apprehended, tried or suffering punishment, makes the assister an accessory.

The offence of an accessory after the fact was never regarded so serious as that of other accessories, as such an accessory might have been moved by feelings of love or pity to assist the felon, in which case his prosecution was seldom ordered and it was always discouraged. That policy has led to the elimination of that class of offenders from the Code, but there still remained persons whose offence could not be similarly overlooked. There are those who know of the felony committed and that it is complete and still assist the felon not only by relieving, comforting or assisting him; but also by weakening the prosecution against him. Such a case is made punishable by Section 201, the policy of which is to prevent such accessories from tampering with justice.

17. Aiders and abettors have been classified in English Law as accessories before the fact and accessories at the fact and accessories after the fact. The first two are reached by the Code under the law of Abetment. The Indian Law Commissioners dealt with them as 'subsequent abettors.' But the English law commissioners found no justification for the tripartite division of accession of English law and this was agreed to by the Indian Law Commissioners and Section 201 with its illustration which formed Section 106 of the Original Bill as part of the chapter on abetment was transposed to this place. (7th Report, Sections 103 to 108 cited in first Report Section 220 reprinting page 242). For history of the IPC see v Rt. Hon'ble Sir George Ranldn, Background to Indian law and the Indian Penal Code, as originally framed in 1837 with notes by T. B. Macaulay, T-M. MacLeod, G. W. Anderson and F. Millett and the first and second reports therein dated 23rd July 1846 and 24th

June 1847 by C. H. Cameron and D. Elliott a verbatim report. Messrs. Higginbothams, Madras, 1888.

18. The meaning of the words used in Section 201 may now be considered : See R. A. Nelson - the Indian Penal Code, 5th Edn. (Sweet and Maxwell) pp. 372-373; V. B. Raju, I. C. S., Penal Code, 1957, pp. 665 and foil.

19. Offence: That word 'offence' as used in Section 201 does not contemplate that the accused should know the particular Section of the Penal Code under which the offence falls or the precise character of the offence committed. What the court has to decide is what offence the accused knew or had reason to believe had been committed. When Section 201 refers to 'offence' it refers to the offence as it appeared to the accused, crediting with the knowledge that can reasonably be expected of him. Offence, i. e., a thing punishable under the Code or under the any special or local law if punishable thereunder with 6 months' imprisonment with or without fine : Section 40, IPC A thing is not an offence if it falls within any Section in Ch. IV, Section 6, IPC

20. 'Reason to believe,' Section 20 I. P, C. It is not enough that the accused was aware of a rumour or of a suspicion relating to the commission of an offence,

21. Knowledge : Assuming then that there was an offence committed, and that there is an offender awaiting justice, the next thing required by the Section to be proved is that the person to be charged under the Section must have known or have reason to believe that an offence has been committed. But of the offence he may not have much knowledge. He may believe a person to be guilty, but he may have no reason for his belief. In that case he does not transgress the provisions of Section 201 by doing what is here condemned. The Section only punishes him who either knew or had reason to believe that an offence had been committed. Now, no one can be said to have reason to believe a thing unless he had sufficient cause to believe that thing. It lies on the prosecution to prove that the accused had such sufficient cause for his belief. This must depend upon the facts and circumstances of each case.

22. Knowledge as contrasted with intention-would properly signify a state of mental realisation in which the mind is a passive recipient of certain ideas and impressions arising in it or passing before it. It would refer to a bare state of consciousness, awareness of certain facts in which human mind might itself remain supine or inactive. On the other hand, intention connotes a conscious state in which mental faculties are roused into activity and summoned into action for the deliberate purpose of being directed towards a particular and specified end which the human mind conceives and perceives before itself.

Mental faculties which might be dispersed in the case of knowledge are in the case of intention concentrated and converged on a particular point and projected in a set direction. The difference between the shades of meaning of the two words is fine but clear, and the use of the one in place of the other by the Legislature cannot be without purpose. The words used by the legislature must therefore, be given that full effect : A distinction must be made between motive, intention and knowledge. Motive is something which prompts a man to form an intention and knowledge, is an awareness of the consequence of the act. In many cases intention and knowledge merge into each other and mean the same thing more or less and intention can be presumed from knowledge.

The demarcating line between knowledge and Intention is no doubt thin but it is not difficult to perceive that they connote different things : *Basdev v. State of Pepsu*, 1956 All LJ 666 : A.I.R. 195e SC 488. Accused though he may have known that if discovered, his act would be likely to cause annoyance to the owner of the house, cannot be said to have intended either actually or constructively to cause such annoyance. It is one thing to entertain a certain intention and another to have the knowledge that one's act may possibly lead to a certain result.

23. 'Offender' : In the context of Section 201', has now been construed as including the principal or actual offender himself. There were differences of opinion as between the various High Courts formerly. But this has been settled by two Privy Council decisions, In *Begu v. Emperor* five persons were charged Under Section 302 with murder, and two of them were convicted. The evidence established that the other three had assisted in removing the body, knowing that a

murder had been committed. Without any further charge being made they were convicted Under Section 201 of causing the disappearance of evidence.

It was held that the conviction without a further charge having been made was warranted by Section 237 CrI. P.C. In *Mangal Singh v. Emperor*, that Lordships of the Privy Council pointed out that the proper venue of approach in such a case is first and foremost to consider whether the case under: Section 302 has been made out. If so, that is the end of the matter. If the case under that- Section was not proved then, and only then, would it be proper to consider whether an offence Under Section 201' has been established. Where the charge is framed in the alternative in respect of offences under 5s. 302 and 201, the position contemplated by Section 72 IPC may arise,

It may be open to the court to give Judgment that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty. Such a finding is in accordance with Section 367 (3) CrI. P. C. and will have the consequence that Under Section 72 IPC the offender is to be punished for the offence for which the lowest punishment is provided, the same punishment not being provided for all : *Nebil Mandal v. Emperor* A.I.R. 1940 Pat 289.

this Court has held that Sections 201' to 203 are applicable to a person who is guilty of the main, offence, though in practice a court will not convict an accused both of the main offence, and under these Sections. *Chinna Gangappa v. Emperor* ILR (1930) Mad 68 : A.I.R. 1930 Mad 870; *Public Prosecutor v. Venkitamma*, ILR (1932) Mad 63 : A.I.R. 1932 Mad 748; *In re Rama Goundan* : AIR1942 Mad275 . See also *Maliadeo Nath v Emperor* : AIR1941 Pat550 . *In re Nalli Narasicadu* (1915) Cri. L.T. 583 : A.I.R. 1915 Mad 1163. *Ayliogand Tyabji IT.* held that separate sentences Under Section 201' and Section 302 IPC were illegal.

Where two persons, charged with murder and with causing the disappearance of evidence with the intention of screening the offender from legal punishment Under Section 302 and Section 201, are acquitted Under Section 302 on the ground that the evidence is not sufficient to establish that both of them took such part in. causing the death as would justify the conviction of each of them of murder, they

can be convicted Under Section 201 even though the court is of opinion that one or other of them, if not both, must have committed the murder. Neither the circumstance that neither of them has been convicted of the main offence nor the fact that the Court is not satisfied that they are innocent of the main offence is a bar to the conviction under Section 201.

This is on the principle as pointed out in Mayne's Criminal Law of India, 4th Edn, revised by Dr. S. Swaminadhan at page 208 that all who endeavour to stifle the truth and prevent due enquiry are highly punishable and that results may follow from that very conduct and it would be curious if that which constitutes the evil should condone the offence. See also *Rup Narain Kurmi v. Emperor* : AIR1931 Pat172 . Where it is impossible to say definitely that a person has committed the principal offence, he cannot escape conviction Under Section 201 merely because he has been charged also with the principal offence, or because there are grounds for suspicion that he might be the principal culprit; ILR (1932) Mad 63 : A.I.R. 1932 Mad 748.

The recovery of the body of a person murdered on its being pointed out by the accused would be very strong evidence of an offence Under Section 201; In *re Koricha Venkataswami*, 39 Cri. L.T. 977. See also *Nagan v. Emperor* 1937 M.W.N. 544; *Emperor Ponnuchami Thevan*, 1936 M. W.N. 1389, *In re Periasami Thevan*, 1934 M. W.N. 128 *Muthu Goundan v Emperor*, 1931 M.W.N. 765 *In re Parasa Mangadu*, 1948 M. W.N. 683 : A.I.R. 1949 Mad 270. In *In re, Kaliaperumal* : AIR1954 Mad1088 , the accused was charged and convicted Under Section 303 for murdering a boy. There was no evidence to convict the accused for the offence of murder. The accused admitted the possession of the ornaments belonging to the murdered boy and also the disposal of the same by himself. The falsity of the explanation offered by the accused was not established. The disposal of the ornaments resulted in screening whoever had been responsible for the murder and the accused must be presumed to intend the natural consequence of his act and it is only reasonable to presume an intention to screen the offender. The conviction was altered to one under Sec 201, even though no specific charge) was framed Under Section 201 IPC

24. To sum up, the foregoing upto this stage. Section 201 looks upon a person giving false information with intent to screen an offender as an accessory after the fact and makes him culpable as an offender committing an offence against public justice, as the policy of the law is that even at the early stage of the enquiry nothing should be done which would lay false trails or cause the enquiry to be burked or weaken the prosecution and injuriously interfere against public justice.

25. The final point which falls to be considered is that part of Section 201 viz, 'with that intention gives any information'. To whom? The learned advocate appearing on behalf of the accused urged that that information should be given to the police or Magistrate or persons who will be able to set the machinery of law and administration of justice in motion and that it could not obviously be the object of the legislature that any piece of false information touching the offence given by the offender to' any person including a passer-by would make him culpable under the latter part of Section 201.

This argument appears at first sight to wear an A.I.R. of plausibility. But as pointed out by the learned Advocate General an analysis of this Section shows that the Section will apply only when that false information touching the offence with intent to screen the offender is given to those interested in bringing the offender to justice : Vide Gour's Penal law in India, 6th Edn. Vol. II, p. 887. This conclusion is derivable from the term 'with the intention of screening the offender gives false information.'

It is only when he does so that he will become culpable and he will have that intent only when he gives that information to a person whom he knows is interested in bringing the offender to justice. Thus, to follow the argument of the learned advocate Mr. Gopalaswami, if the accused gives information to a wayfarer, it will only be a case of gossiping and not with intent to screen the offender. This connotation vastly reduces the denotation of the persons thus informed, and in practice would reduce itself only to the authorities, persons in authority and the persons so interested that they would take action to bring the offender a justice, e.g., the father, guardian, caste head etc.

26. The position taken by the learned Advocate General is first of all supported by the significant language used in Section 201 and secondly, by decisions. If we carefully study Ch. X and XI of the Penal Code, we find that some Sections use the words that the information should be to a public servant and some Sections lay down that such information should be given by persons legally bound to do so. In the case of Section 201 neither the term 'public servant' nor the term 'legally bound' is used. In other words, persons to whom information is given will take in non-public servants. Persons not legally bound to give information would take in persons like the principal or the actual offender.

This false information can be given at a very early stage and the object is to put off the enquiry and screen the offender by putting, for instance, an innocent complexion on an otherwise sordid crime. This interpretation is concluded by authority. In *Pattammal In re*, 1940 M.W.N. 803 : A.I.R. 1940 Mad 898, the facts were : The accused Pattammal was a dancing girl who was being kept by deceased Murugesu Mudali. The deceased was with the accused on the afternoon on 15-7-11939 and at about 4-30 p.m. he was found lying unconscious.

The accused gave information to P.W. 4 and others that while she and the deceased were chatting and lying, the latter suddenly complained of stomach-ache, that he went to the latrine and came back, had a hiccup and passed stools in his bed and then became unconscious. The autopsy subsequently on the body of the deceased showed that he had died due to throttling. Pattammal was charged Under Section 302 IPC and one of us (Ramaswami J, while he was the Sessions Judge of Chingleput) convicted the accused under the latter part of Section 201 I. P. C

On appeal, Lakshmana Rao J. held that the information need not be given to the police or Magistrate Under Section 201 IPC : Vide *Queen v. Suhramania Pillai* 3 M. H.C.R. 251 and it is immaterial whether that information is volunteered or given in reply to enquiries : Vide *The Acting Public Prosecutor v. Chinnappa Reddi* 1 Weir 118, It is quite clear that 3 M. H.C.R. 251 is not a direct authority because this position was assumed in that case & nobody doubted it viz. that information need not be given to the police or Magistrate to come within Section 201, latter

part. In *Alibaksh v. Emperor A.I.R. 1937 Sind 28*, the case for the prosecution was that the accused Alibaksh who was the father-in-law of one Mt. Sahti, gave to his brother Khudabaksh information which he knew to be false, about her death and that he did so with the intention of screening the offender from legal punishment.

The conviction of Alibaksh Under Section 20V (latter part) was upheld. This case also, though it is no direct authority, clearly assumed that information can be given to a person interested in bringing the offender to justice and would make the informant offender culpable. In *Kalawati v. State of Himachal Pradesh, : 1953 CriLJ668*, the conviction Under Section 302i was altered by the Supreme Court to one Under Section 201, because it was found that the accused] Kalawati must have woken up during the course of the assault if not at its commencement, several injuries having been inflicted on her husband in succession, and that, when Shibbi (the cook) woke up, Kalawati's bed was empty and she was found in a room nearby and not at the place of occurrence and she trotted out an elaborate story of dacoity, which could not be accepted as true.

27. Bearing these principles in mind if we examine the facts of this case we find that the requirements of Section 201 as laid down by the Supreme Court in *Palivinder Kaur v. State of Punjab : 1953 CriLJ154* have been, made out. The evidence set out above clearly shows that this accused knew or had reason to believe that an offence had been committed and with that requisite knowledge and with intent to screen the offender from legal punishment, has given false information to P.W. 7, who was interested in bringing the offender to public justice and that this information did mislead P, W. 71 and laid a false trail for him and which false information stood out in its true colours only when P.W. 8 investigated the information given by the accused at the instance of P.W. 7.

28. Therefore, altering the conviction of the accused from Section 302 to Section 201 IPC we convict him accordingly and sentence him to rigorous imprisonment for seven years. HC/K.S.B. Conviction altered and sentence reduced.