In Re: Annasami Nadavan and ors.

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SooperKanoon Citation : sooperkanoon.com/804552

Court : Chennai

Decided On : Feb-26-1918

Reported in : 45Ind.Cas.527

Judge : Abdur Rahim and ;Napier, JJ.

Appellant : In Re: Annasami Nadavan and ors.

Judgement :

1. The first contention of Mr. Thornton is that, though in this case the sentences of the petitioners are such that no appeal would lie in their behalf, by reason of the fact that they were tried with some other persons who received appealable sentences and preferred an appeal therefrom to the Sessions Judge, he was bound to examine the case of the petitioners also, as if an appeal lay in their case as well. We do not think that there is any support in the Criminal Procedure Code for such a contention. Section 408 says that when a person has been convicted by a First Class Magistrate, he may appeal to the Court of Session, but Section 413 lays down that there shall be no appeal by such a person if the sentence passed is imprisonment not exceeding one month or a fine not exceeding Rs. 50. Mr. Thornton's argument is based upon proviso (6) to Section 408 which says 'when in any case an Assistant Sessions Judge or a Magistrate specially empowered under Section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court.' It is contended that in such a case an appeal would lie not only on behalf of the persons who have received the sentences mentioned in proviso (c), but also on

behalf of other persons who were tried along with them, though the sentence passed in their case might be less than that specified in the proviso. We are not at all satisfied that this is what is meant by the proviso. But supposing it is, we do notysee how it bears out the proposition put forward in this case. The language of Section 413 is express and perfectly clear to show that in the cases covered by it, there shall be no appeal, and the first paragraph of Section 408 which specifies the Courts to which the appeals of certain convicted persons will lie does not speak of any 'case', but of the persons convicted. No ruling of this Court or of any other High Court has been cited to us which bears out the contention on behalf of the petitioners. On the other hand there are rulings of this Court reported as Venkata-Ttrishnayya, In re 39 Ind. Cas. 294: 18 Cri. L.J. 454 and In re Uruma Mudali 23 Ind. Cas. 739, which support the contrary proposition;, The interpretation of the law in those cases is also in accordance with the practice of this Court, and so far as we are aware of the other High Courts as well, See Reg. v. Muliya Nana 5 B.H.C.R. 34. Cr. and Reg. v. Kalubhai Meghabhai 7 B.H.C.R. 35 Cr. which are referred to in Venkatakrishnayya, In re 39 Ind. Cas. 294, The only other contention raised before us relates to the sentences of the accused Nos. 3 and 9., They have been sentenced to rigorous imprisonment for a month each of the offences of which they were found guilty, namely, criminal trespass, rioting and hurt. We are unable to say that the sentences are too severe. The petition is dismissed. The accused, if on bail, will surrender to their bail and serve out the remaining portions of their sentences.