

In Re: Ramaswami Tevan

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Court : Chennai

Decided On : Sep-29-1921

Reported in : 69Ind.Cas.380

Judge : Kumaraswami Sastri, J.

Appellant : In Re: Ramaswami Tevan

Judgement :

Kumaraswami Sastri, J.

1. The Sessions Judge finds that first accused was not present at the scene of offense but was at a place 50 or 60 miles away. There is no finding that five persons or more took part in the offence-Three were originally put up for trial and were convicted and two were subsequently put up for trial. One was acquitted on the ground that he did not take any part and the appellant was convicted under Sections 147 and 304, On the findings of the Sessions Judge it is difficult to support a conviction as it is not shown that five or more persons took part in the offence. It is not shown that the appellant did any act which caused the death of Veerappa Tevan and he can only be convicted if it is shown that there was an unlawful assembly of five or more persons whose common object was to commit an offense under Section 304 and appellant was one of them. The Public Prosecutor says he cannot support the conviction on the findings. He asks for & re-trial but I do not think it necessary as I consider a conviction on the evidence

doubtful. I set aside the conviction and sentence and direct him to be set at liberty.

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