

In Re: Jeyadevan

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SooperKanoon Citation : sooperkanoon.com/806187

Court : Chennai

Decided On : Nov-06-1970

Reported in : (1971)1MLJ497

Appellant : In Re: Jeyadevan

Judgement :

B.S. Somasundaram, J.

1. Thiru Jayadevan, the appellant herein, is a shroff merchant at Tiruchirapalli. On 22nd March, 1968, he gave a complaint to the Sub-Inspector at the Railway Police Station, Egmore, to the effect that he had lost a suit case which contained gold bars of fourteen carat to the value of Rs. 1,60,000. The Police, after investigation, referred the case as false and filed a complaint against the appellant for an offence under Section 182 of the Indian Penal Code. He in defence contended that the report given by him was true. Observing that it was false, the learned V Presidency Magistrate convicted and sentenced him to pay a fine of Rs. 500. The correctness of this conviction is canvassed in this appeal.

2. The appellant was looking after the jewellery shop of his sister's husband one Radhakrishnan at Tiruchirapalli. Smt. Sugunavalli (P.W. 4), his sister, says that on 21st March, 1968, the appellant took to Madras fourteen-carat gold bars from the shop, for converting them into twenty four-carat gold. The appellant arrived at the Egmore Station on 22nd March, 1968, at about 8-30 A.M. and later gave the report

Exhibit P-2 to the Sub-Inspector (P.W. 11) stating, therein that the suit case which contained these gold bars were missing. This complaint was registered as Crime No. 336 of 1968 under Section 379 of the Indian Penal Code and investigated. Investigation disclosed that the appellant had not at all brought the suit case from Tiruchirapalli to Madras. M.O. 2 series, 82 bars, said to be gold were produced by the appellant from the backyard cow-shed of D. No. 165, Big Bazaar Street, Tiruchirapalli. Scrutiny of these bars by Thiru Gopalakrishnan (P.W. 9), the Vice-President of the Jewellers Association at Madras, disclosed that these bars were copper ones. P.W. 1, a dealer in old jewels, has deposed that on 27th March, 1968, this appellant asked him to inform the Police, when questioned, that on 21st March, 1968, he left Tiruchirapalli by train with a box. P.W. 2, a Taxi Driver, stated that on 21st March, 1968, he dropped the appellant at the Tiruchirapalli Junction and that he then had with him the suit case (M.O. 1) and another bag. He further stated that the appellant had asked him to tell the Police that he had taken two suit cases on that day. P.W. 3, a Porter, deposed that he did not carry any article for the appellant on the 21st, that on the 27th the appellant told him that he had lost some samans at Egmore and asked him to say to the Police that he had carried some articles, which he refused. P.W. 6, a porter at Madras, stated that on the 22nd he saw this appellant standing near the waiting room with a leather bag and the suit case (M.O. 1). P.W. 7, the Inspector attached to the Central Excise deposed that they had not given any instruction to the appellant for converting fourteen-carat gold into twenty-four-carat. P.W. 9 deposed that the bars said to have been produced by the appellant were brass ones. The Sub-Inspector (P.W. 11) stated that his investigation disclosed that the report Exhibit P-2 given by the appellant was false. This is all the evidence which was adduced against the appellant for the charge under Section 182 of the Indian Penal Code.

3. The prosecution attempts to prove this charge mainly by establishing that this appellant did not actually bring with him the suit case which contained the genuine gold. In other words, that he carried with him only M.O. 1 suit case which did not contain these bars and that he did not carry two suit cases as stated by him. The prosecution has not established that this appellant did not carry with him two suit cases as stated by him. P.W. 2 is the Taxi Driver who claims to have taken this appellant to the railway station at the Tiruchi junction at 9 P.M. on 21st March,

1968. He states that the appellant had with him a suit case, M.O. 1, and that he did not notice any other suit case with him on that day. He admits that he could not say what articles were taken by this appellant in his prior trips, nor he could say as to who all get into the taxi on that day. He further admits that he had not noted this trip in the trip sheet. His evidence does not rule out the possibility of the appellant having sent the box to the train in some other manner. In other words, from his evidence it cannot be said that no other box was also carried by this appellant on that day. P.W. 3 is the porter at the Tiruchi junction. He states that he did not carry any article for the appellant. He further admits that even on the 27th, the appellant told him that he had lost some samans at Egmore on the 21st. P.W. 4 is the wife of the deceased Radhakrishnan Chetty. The appellant is her brother. She has deposed that on the 21st this appellant took the key and took 14 carat gold from the shop for purposes of converting them at Madras into 24 carat. On his return he told her that the box which contained the gold bars disappeared at the Egmore Station. The prosecution case is that 81 bars said to be gold were recovered from the backyard of her house and that these bars when tested later proved to be copper bars. P.W. 4 states in her evidence that nothing was recovered from her backyard on the 29th. The appellant had taken the 14 carat gold from the shop after making the entry in the account book Exhibit P-1. P.W. 5 says that the appellant left the shop by walking. P.W. 6 is the porter at the Egmore station and his evidence is that he had seen the appellant standing near the waiting room with the suit case M.O. 1 and that he did not have two suit cases. The evidence of this witness who says that in that crowd he was able to see this appellant so as to say that he had with him only the suit case, M.O. 1 could hardly be believed and no reliance could be placed upon his testimony. P.W. 7, the Inspector of Central Excise states that he did not issue any instructions to the appellant to convert 14 carat into 23 or 24 carat. P.W. 8 the Superintendent admits that the appellant need not get the permission to take gold to Madras from Tiruchi. What all he has to do is only to note the transport of gold in the accounts maintained in the shop. This the appellant has done. P.W. 9 admits that there is a refinery under the name and style of Pandu Rao & Co. at Madras for converting 14 carat into 24 carat. The appellant had told this witness who happened to be the Vice-President of the Jewellers Association that he had brought gold from Tiruchi to Madras and that he

had lost it at the Egmore Railway Station.

4. The suggestion on the side of the prosecution is that because of some dispute with P.W. 10 this appellant played this game just for the purpose of cheating the former. P.W. 10 admits in his evidence that there was no dispute whatever between him and the appellant over the management of the jewellery shop. Thus, the prosecution has not established beyond all doubt that the report given by the appellant was false.

5. Section 182, Indian Penal Code, punishes a person who gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him. To constitute an offence under Section 182, it must be shown that the person giving the information knew or believed it to be false, or that the circumstances in which the information was given were such that the only reasonable inference is that the person giving the information knew or believed it to be false. The fact that an information is shown to be false does not cast upon the party who is charged with an offence under the section the burden of showing that, when he made it, he believed it to be true. The prosecution must make out that the only reasonable inference was that he must have known or believed it to be false. The prosecution in this case has not proved beyond doubt that the information given by the appellant was either false or was given with the knowledge that it was false.

6. The conviction under Section 182, Indian Penal Code, is not correct. The same is set aside. The appellant is acquitted. The fine if collected shall be refunded. The appeal is allowed.