

In Re: Rangasami Goundan and ors.

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Court : Chennai

Decided On : Mar-20-1917

Reported in : 39Ind.Cas.988

Judge : Abdur Rahim and ;Napier, JJ.

Appellant : In Re: Rangasami Goundan and ors.

Judgement :

ORDER

1. As regards the conviction under Section 428, Indian Penal Code, we do not think that it is wrong. The accused cut the ears of two asses clean off at their base and it is contended that this act does not amount to 'maiming' within the meaning of Section 428. We have a decision of this Court in Marogowdha v. Srinivasa Rangachar 12 Ind. Cas. 90 ; (1911) 2 M.W.N. 141 where it was held that the cutting of the ears of a horse amounted to an offence of maiming within the meaning of the Indian Penal Code. That also seems to be the view taken in Anna Laxman Bhintade v. Emperor 34 Ind. Cas. 973 ; 18 Bom. L.B. 289, although in the latter case, because the animal's ears had not been wholly out off but, only a portion of the ears had been out, it was held that the offence was not one of maiming. But here the ears have been completely removed and the case falls within the ruling of Marogowdha v. Srinivasa Rangachar 12 Ind. Cas. 90; 10 M.L.T. 192 ; (1911) 2 M.W.N. 141 ; 12 Cri. L.J. 482. Such an act is likely to affect the hearing of the animal and it certainly amounts to mutilation. The fine of Rs. 50 passed on each of the accused Nos. 1 and 2 seems to us to be rather heavy.

While we uphold the conviction, we reduce the sentence of fine to a fine of Rs. 25 each. We do not think we should interfere with the conviction of the 4th and the 5th accused for hurt. An objection is now taken that this offence was not committed in the course of the same transaction as the offence under Section 428. This point was not raised before the Magistrate, nor is it mentioned even in the grounds of the revision petition. We do not think that an objection of this nature should be allowed to be taken for the first time in revision. The balance of the fines will be refunded, if paid.

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