

**In Re: Sankaram Servai**

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**SooperKanoon Citation :** [sooperkanoon.com/808057](http://sooperkanoon.com/808057)

**Court :** Chennai

**Decided On :** Oct-09-1928

**Reported in :** AIR1929Mad496; 113Ind.Cas.455

**Appellant :** In Re: Sankaram Servai

**Judgement :**

ORDER

**Reilly, J.**

1. The Assistant Sessions Judge found that there was an occurrence in which P.W. No. 7 and the other men against whom the petitioner reported took part, but that the occurrence was exaggerated by the petitioner into a case of dacoity. The petitioner reported to the Village Magistrate that P.W. No. 7 and the other men removed the women's jewels, not stating which particular men removed them. The Assistant Sessions Judge appears to be of opinion that it is enough to consider the question whether P.W. No. 7 removed the jewels and accepts P.W. No. 7's evidence that he did not do so. But the petitioner's charge would have been substantially true if any of the other men named by him had taken the jewels, and none of them has been examined in this case. The petitioner produced evidence to show that two of those men removed jewels from the women but Sessions Judge on appeal has not considered that evidence. The charge against the petitioner on which he has been convicted is that he instituted criminal proceedings by his report to the Village Magistrate against P.W. No. 7 ' and five

others ' falsely charging them and knowing that there was no-just or lawful ground for those proceedings. In the trial that charge against the petitioner has not been clearly established, as the prosecution has not called sufficient evidence to make it out. It was not for the petitioner to make out that his report was true until the whole ground of it had been clearly traversed by evidence showing that it was false. The petitioner's conviction and sentence are set aside and he is acquitted. His bail bond will be cancelled.

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