

In Re: K. Narayan Nair

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Court : Chennai

Decided On : Apr-05-1910

Reported in : 6Ind.Cas.409

Judge : Abdur Rahim, J.

Appellant : In Re: K. Narayan Nair

Judgement :

ORDER

Abdur Rahim, J.

1. I think this conviction must be set aside. The gist of an offence under Section 193, Indian Penal Code, in which the accused is charged with making two contradictory statements, one of which he must have known to be false, is that the two statements, finding the words of those statements in their ordinary and natural meaning in the light of the context in which they are used, must be irreconcilable. Beading the two statements made by the accused with reference to his having seen the man, who was under trial in Calendar Case No. 228 of 1909, run away from the custody of the peon, I do not find they are irreconcilable. On the first occasion the present accused had said that he had seen Rama Pattar's son Lakshmana Pattar running away from custody and on the second occasion what he said was that he saw one Pattar going eastward and that he was not certain whether that mait was the accused. The Prosecutor in the Magistrate's Court was

content to leave the matter there and did not question the accused when he was giving evidence on the second occasion whether he had seen Lakshmana Pattar run away or not. At any rate, there is nothing on the record to show that the accused stated then that he did not see Lakshmana Pattar running away from custody. And as pointed out by the learned Public Prosecutor the accused was not specifically asked any questions at the time of his second deposition as to his previous statement in which he had said that he had seen Lakshmana Pattar run away from custody.

2. That deposition was shown' to him but that is not enough. His attention ought to have been drawn to the particular statement which is alleged to be irreconcilable with the second statement so that he might have an opportunity of explaining, if he could, his first statement. And as I have said the two statements are not irreconcilable with each other.

3. The conviction and sentence are set aside and the bail bonds will be discharged and the fine, if paid, will be refunded.

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