

K. Sankara Chenna Basappa Vs. K. Manappa

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Court : Chennai

Decided On : Mar-26-1924

Reported in : AIR1925Mad245a

Appellant : K. Sankara Chenna Basappa

Respondent : K. Manappa

Judgement :

ORDER

Venkatasubba Rao, J.

1. The appellate Magistrate erred in treating as evidence against the first accused admissions of the second accused. Under Section 167 of the Indian Evidence Act, the improper admission of evidence is not ground of it self for a reversal of any decision, if it appears to the Court that, independently of the evidence improperly admitted, there is sufficient evidence to justify the decision. If I were competent to deal with facts, I should ignore the evidence which ought not to have admitted, and then consider whether there still remains sufficient evidence to support the conviction, see Mohur Singh v. Ghureeba (1871) 15 W.R. 8. But I am dealing with the matter in revision and I cannot adopt this course. Ordinarily in such circumstances, the case will be remanded and the Magistrate will be directed to give a finding with reference to admissible evidence only. But unfortunately there was already one remand and I do not think any useful purpose will be served by

prolonging this enquiry. It further appeals that in so far as the civil rights of the parties are concerned, they have entered into a compromise and that, a decree has been passed giving effect to it. Dr. Swaminathen says that he will be quite satisfied, if I reduce the sentence to the period of imprisonment already undergone, I think, in the circumstances, this quite fair and I accordingly make that order and direct that the fine if it has been collected shall be refunded. The balance of the sentence shall be remitted.

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