

Public Prosecutor Vs. Thulasingham

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Court : Chennai

Decided On : Jan-05-1962

Reported in : 1964CriLJ241

Judge : Sadasivam, J.

Appellant : Public Prosecutor

Respondent : Thulasingham

Judgement :

Sadasivam, J.

1. Appeal by the Public Prosecutor against the acquittal of Thulasingham in respect of a charge Under Section 304-A I. p, c. by the Additional First Class Magistrate, Cuddalore, In C. C. No. SI of 1961 on his file. The only ground on which the respondent has been acquitted by the lower Court is that there is no evidence to prove that he drove the lorry. The learned Public Prosecutor referred to the fact that the respondent went and gave the first information report Ex. P-4, admitting that he drove the lorry at the time of the occurrence and the evidence of P. W. 8, (Head Constable), who received the report and registered it as crime No. 7 of 1961 in this case.

But as pointed out by the Supreme Court in the deci Soft of Nisar Ali v. State of Uttar Pradesh (S) : 1957 CriLJ550 the first information report is not a sub stajitive

piece of evidence and it can only be used to corroborate the statement of the maker Under Section 157 of the Evidence Act, or to contradict Under Section 145 of that Act and it cannot be used as evidence against the maker at the trial if he himself becomes an accused, nor: to corroborate or contradict other witnesses and that' it is therefore not evidence. So far as the evidence of p.w. 8 is concerned he did not state that the accused admitted that he drove the lorry at the time of the occurrence. Further, even if he had said so it would amount to a confession to a police officer and it would be in-admissible in evidence.

2. Apart from the above facts, there is evidence of the prosecution witnesses that it was not the respondent who drove the lorry. P. Ws. 1 and 2 are the workmen who were present at the scene of occurrence. P. w. 1 stated that he did not see the lorry driver and that P. W. 2 was present at the place. P. W. 2 stated that several persons ran from the lorry, that he caught one of them and that the said person reversed the lorry. He; however stated that the said person was not in the Court below thereby meaning that it was not the accused (respondent). He is corroborated by the evidence of P. W. 3. P. W. 3 also stated that he did not see the driver that day at all, but he was treated as hostile. P. W. 4 also stated that he could identify the driver of the lorry who drove on that day and that the accused was not the driver.

P. W. 11 is the cleaner of the lorry and he stated that Thulasingham was the driver of the lorry. The name of: the accused (respondent) is also Thulasingham. But he stated that the accused was not that Thulasingham. Act codling to him the driver Thulasingham who drove the lorry that day was a temporary driver who had come from Madurai. It is true he was also treated hostile. Having regard to the above facts it could not be said that the learned Additional First Class Magistrate erred in finding that the prosecution has not proved beyond reasonable doubt that the accused (respondent) was the driver of the lorry at the time of the occurrence.

3. For the foregoing reasons, there is no ground to interfere with the acquittal in appeal. The appeal is therefore summarily dismissed Under Section 421 CrI. P. C.