

In Re: Oomayan

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Court : Chennai

Decided On : May-01-1914

Reported in : AIR1915Mad50(1); 25Ind.Cas.330

Judge : Ayling and ;Seshagiri Aiyar, JJ.

Appellant : In Re: Oomayan

Judgement :

ORDER

1. The accused in this case, a deaf-mute, has been convicted of theft of a box of clothes and effects belonging to a railway guard. The case has been referred for orders under Section 341 of the Criminal Procedure Code.

2. We do not think the conviction can be sustained. The only evidence against accused is that a week after the theft, accused was caught by the guard walking past his quarters and wearing a suit of pyjamas which formed part of the stolen property. In the case of an ordinary individual it would be open to the Court to apply the presumption authorised in Section 114 (a) of the Indian Evidence Act, i.e., to infer from his recent possession of stolen property, unless he could explain his possession, that he was either the thief or a dishonest receiver guilty under Section 411 of the Indian Penal Code.

3. But in the present case it is impossible to draw such an inference, because accused's infirmity prevents him from putting forward any explanation he may have

to offer. No one has been found able to communicate with him and we cannot place much reliance on the Magistrate's statement of what he was able to gather from what he calls 'not very intelligible signs.' There appears to be no other circumstance from which a dishonest knowledge or intent on the part of the accused can be inferred.

4. We set aside the conviction and direct the release of accused.

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