

In Re: Raju Alias Edly

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Court : Chennai

Decided On : Jul-26-1962

Reported in : (1962)2MLJ537

Appellant : In Re: Raju Alias Edly

Judgement :

ORDER

Sadasivam, J.

1. Petitioner Raju alias Edly Rajoo has been convicted under Section 379 read with Section 75, Indian Penal Code and sentenced to rigorous imprisonment for six months. ,The learned advocate for the petitioner argued the Criminal Revision Petition as though it is a regular Criminal Appeal. In fact, one of his contentions is that Section 411, Criminal Procedure Code is ultra vires having regard to Article 14 of the Constitution. According to him, the petitioner would have a right of appeal if he had been convicted and sentenced to six months' rigorous imprisonment in the mofussil. There is no substance in this contention. There are separate Civil and Criminal Courts in the City of Madras with separate jurisdiction and they differ widely from the Civil and Criminal Courts in the mofussil. The reasons for the difference could be understood only by a person having knowledge of legal history. It could not be said that the existence of such difference in the constitution and jurisdiction of the Courts in the mofussil and the City is a violation of the principle of equality before the law embodied in Article 14 of the Constitution. Such

difference may be justified as one of reasonable classification based on geographical division. It should be noted that the petitioner would have been tried by a Second Class Magistrate in the mofussil, but he was tried in the City by a Presidency Magistrate who should at least be of the cadre of Sub-Divisional Magistrate. In fact, in this case the petitioner was tried by the Third Presidency Magistrate who was a District Magistrate before he came as the Third Presidency Magistrate.

2. On the facts of the case, there can be little doubt about the guilt of the petitioner. P.W. 1, Krishnamoorthy is a Junior Engineer. On the evening of 7th April, 1961. he travelled in a bus with five-ten rupee notes and one one-rupee note in his left shirt pocket. He suspected the movements of the petitioner who constantly came near him. When he got down from the bus, he found his money missing. He saw the petitioner running and gave him a chase but was unable to catch him. He went to the Police Station and gave the complaint, Exhibit P-1. At 7-30 p.m. on 7th April, 1961 itself, the petitioner was caught by the Police when he was creating disturbance in a drunken mood. A sum of Rs. 48 in currency notes was recovered from him. P.W. 1 was sent for, and he went to the Police Station and identified the petitioner as the person whom he chased that evening. Further, among the currency notes seized from the petitioner there was one ten-rupee note which contained the number of the Memorandum Exhibit P-2 written by P.W. 1. This clearly shows that the M.O. 1 recovered from the petitioner was one of the notes kept by P.W. 1.

3. The learned advocate for the petitioner commented on the identification of the petitioner by P.W-1. The learned Third Presidency Magistrate has considered it in detail, and he has accepted the identification. I see no ground to differ from him. The learned advocate for the petitioner commented on the fact that it has not been mentioned in the General Diary or the Remand Report, that P.W. 1 had noted the number of the memorandum Exhibit P-2 in one of the ten-rupee currency notes kept by him. But it has been mentioned in the earlier complaint, Exhibit P-1 and the first information report in this case. There is no substance in the contention that the complaint itself was got up after the petitioner was arrested. The learned Third Presidency Magistrate has disbelieved the evidence of the defence

witnesses, and no argument was advanced in respect of the same.

4. Thus, the evidence of P.W. 1, and the recovery of the note, M.O. 1 clearly prove the guilt of the petitioner beyond any reasonable doubt. The conviction of the petitioner under Section 379, Indian Penal Code is, therefore, correct. Having regard to the charge under Section 75, Indian Penal Code the sentence of six months' rigorous imprisonment for a pick-pocket is very lenient.

5. There is no ground to interfere with the conviction or sentence. The Revision Petition is dismissed.

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