

In Re: Bapu Naidu and ors.

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Court : Chennai

Decided On : Sep-24-1915

Reported in : AIR1916Mad732(2); 31Ind.Cas.175

Judge : William Ayling, J.

Appellant : In Re: Bapu Naidu and ors.

Judgement :

ORDER

William Ayling, J.

1. The judgment of the Joint Magistrate, while fairly discussing the prosecution story as a whole and giving satisfactory reasons for accepting it, has omitted to consider the case against the individual accused separately. This is very necessary in a rioting case in which 11 accused are implicated, and in which the occurrence is obviously the outcome of previously existing ill-feeling. The Magistrate has, in fact, declined to discuss the alibi evidence on the simple ground that each alibi is spoken to only by a single witness. This is not so. The alibi of 2nd accused is supported by the 2nd and 5th defence witnesses; that of 5th and 6th accused by the 4th and 5th defence witnesses; and that of 11th accused by the 1st, 5th and 6th defence witnesses, as well as 9th prosecution witness. The case of this latter accused calls for special consideration also, as he is admittedly a particular enemy of the 1st prosecution witness, and cross-examination of the

latter has been directed to show that he has been impleaded falsely on that score alone. I think it must be said that the Magistrate has failed to consider the question, whether the evidence regarding each individual accused is sufficient to show that he participated in the rioting.

2. I, therefore, set aside the order of the Joint Magistrate and direct him to restore the appeal to file and dispose of it according to law, giving the parties an opportunity of addressing fresh arguments if they desire as regards the individual complicity of accused.

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