

In Re: Oomayan

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Court : Chennai

Decided On : Nov-21-1941

Reported in : AIR1942Mad452

Appellant : In Re: Oomayan

Judgement :

ORDER

Horwill, J.

1. The Stationary Sub-Magistrate of Trichinopoly convicted the appellant under Sections 342 and 451, Penal Code and sentenced him to two months' rigorous imprisonment and to pay a fine of Rs. 25 on each count. There is some evidence that the accused was on bad terms with the butler of the complainant's house. The only other evidence against the accused is that of a head constable, who has made a special study of footprints. He came to the conclusion that a footprint found in the compound of the complainant's house was that of the accused. Experts in footprints are not recognised by the Evidence Act; but there can be no doubt that a Magistrate is entitled to take into consideration the evidence of a person who has seen a footprint and taken the footprints of the accused and found that they are very similar. That evidence is not however sufficient to bring home the offence to the accused in the absence of further knowledge regarding the differences between one foot and another. After admitting this petition my attention was drawn to a reference by the District Magistrate under Section 438, Criminal

P.C. in which he made very similar observations to that in the previous paragraph. I agree with the District Magistrate that the evidence against the accused was not sufficient to support a conviction. The convictions and sentences are therefore set aside and the appellant acquitted.

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