

In Re: Sheik Mahaboob

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Court : Chennai

Decided On : Jul-30-1941

Reported in : AIR1942Mad532

Appellant : In Re: Sheik Mahaboob

Judgement :

ORDER

Horwill, J.

1. The joint Magistrate of Ongole tried four accused for the offence of 'theft in a building.' They were all youths; and after admonishing them he released them under Section 562, Criminal P.C. Section 562 can be applied only to first offenders; and so accused 4, who had already spent two periods in a Borstal School, could not be treated under this section. The Sessions Judge has therefore referred the case to this Court for orders. The only evidence against the accused persons was a confession which is said to have been made by them and which led to the discovery of the stolen article. All the four accused could not, of course, have been questioned together, nor is it to be believed that they simultaneously made a confession of their guilt. If the police officer and the other panchayatdars had discovered the whereabouts of the stolen article from the statement of one accused, then the statements of the other accused would not be admissible because they did not lead to any discovery. There is no evidence on record which leads one to conclude that it was accused 4 who made the crucial statement, or

that it was accused 4 who led the panchayatdars to the place where the stolen articles were found. I think therefore that he should be given the benefit of the doubt and acquitted. The conviction is therefore set aside.

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