

In Re: Choitano Ranto and ors.

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Court : Chennai

Decided On : Apr-19-1915

Reported in : AIR1916Mad788; 29Ind.Cas.78

Judge : Oldfield and ;Seshagiri Aiyar, JJ.

Appellant : In Re: Choitano Ranto and ors.

Judgement :

1. The first objection to the lower Court's decision taken by Dr. Swaminadhan is that all the accused before us have been convicted of offences punishable under Section 148, Indian Penal Code, though only the 2nd accused is shown to have had a gun. The convictions were apparently based on an application of Section 149. But *Sabir v. Queen-Empress* 22 C.P 276 is against that view of the law; and we have been shown no reason for dissent from the opinion of the Calcutta High Court. The convictions under Section 148 of all except the 2nd accused are set aside.

2. Next it is urged that the 21st accused was really engaged in rescuing the Head Constable, not in dragging or threatening him. That was not alleged at the trial and there is nothing to support it.

3. Mr. Ramesam argues first that the 3rd accused is not shown to have taken any effective part in the riot and is unlikely to have done so, since he went with the Police to the search of the 1st accused's house. The evidence as to his conduct,

which was such as to render him conspicuous, is however clear, and we must confirm his conviction. We return to his sentence.

4. The case of the 19th accused seems to us doubtful. For the 2nd prosecution witness, the Head Constable, whom he is alleged to have attacked, did not recognise him at the identification parade. We give him the benefit of the doubt, which it entailed, and acquit him. He must be released.

5. As regards sentences, we give weight to the fact that the 1st accused is over 60 and that we can find no valid reason for treating the 3rd accused's case as a special case and we also make a reduction on account of the acquittals under Section 148. In the result we confirm the conviction and sentence on the 2nd Accused. We reduce the 1st accused's sentence to two years, 3rd to 10th accused's sentence to nine months, 11th to 13th accused's sentence to five months, 18th accused's sentence to 18 months, and 21st and 22nd accused's sentence to 13 months. We do not interfere with the sentences of fine. The appeals are allowed to this extent and dismissed in other respects.

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