
(1909) 04 MAD CK 0024
In the Madras High Court

Thoolipatti Rama Gowndan, Raman Chetty, Subba Gownden
and Vencatachellam Pillay

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision : 14-04-1909

Acts Referred:

Citation : 2 Ind. Cas. 434

Hon'ble Judges : Ralph Benson, J; Miller, J

Bench : Division Bench

Judgement

1. The conviction is by a Jury. It is contended, on behalf of the 1st accused that there are misdirections in the Additional Sessions Judge's charge to, the Jury and that there were really two distinct dacoities, one on the bandies of prosecution witnesses Nos. 13 to 15, and one on the bandies of prosecution witnesses Nos. 1 to 7, that these ought to have been charged separately, and that the conviction is, therefore, illegal.

2. As regards this, the evidence shows that all the bandies were travelling along the road in a string, and the dacoits attacked them simultaneously. There was no plea in the Court below that there were two distinct dacoities, or two parties of dacoits. We find nothing illegal in regard to this matter.

3. As to misdirection, it is said that the Judge should have found Ex. F not proved, and should not have left it to the Jury to consider its meaning. As we read the charge, the Additional Sessions Judge did tell the Jury that there was no proof of Ex. F and that it was, therefore, needless for him or them to consider its contents. We find no misdirection. The Additional Sessions Judge put the case for the 1st accused very strongly in his favour to the Jury, but the latter decided to convict the accused as well as others and we have no power to interfere with the verdict.

4. We notice, though the point is not taken by the 4th accused, that the Additional Sessions Judge ought to have left it to the Jury to say whether the

4th, 5th and 6th prior convictions alleged against him were proved, instead of himself deciding that they were proved. This is not, however, a matter that could affect the conviction of the accused, as the question of prior convictions is only gone into after the Jury has given a verdict of guilty on the substantive offence. At most it might affect the question of sentence. In the present case three prior convictions were admitted by this accused, and we are not prepared to say that the sentences on him or on the other accused are too severe, having regard to the frequency of dacoities in that District. We, therefore, dismiss the appeals.