Judicial (1895) Department.

ORDINARY MS.

G.O., No. 2182

Dated 28 Oct: 1895

INDEXED.

[Despatch Abstract.]

APPEAL AGAINST ACQUITTAL.

Directing the Government Pleader to prefer an appeal against the judgment of acquittal in Calendar Case No. 45 of 1895 on file of the Second-class Magistrate of Kota in the District of Nellore.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	5492		1895				

Judicial Deptt

From the District Magistrate

of Nellore.

GOVT. TYPE WRITER Date 12/10/95 MADRAS.

CURRENT NO. 4756.

To

The Chief Secretary to Govt
Judicial Department

Dated 11th September 95

Ref No. 1306 DESPD 5TH OCT. 95

CHIEF SECRETARY GOVERNMENT OF MADRAS Rec'd 8/8/95 Encls 3. (5TH OCT) 1895 Subject.

Submitting records in Calendar Case No 50/1895 on the file of the Sub Collr Magistrate & requesting that the Govt Prosecutor may be requested to move the High Court to have the order of acquittal set aside

Endorsement No. 2443

Referred to the Govt Pleader Jr for favour of his opinion as to the probable result of an appeal in this case.

8/10/95. (By order)

Lionel Davidson
10/10

Asst Under Secretary.

Octacamund
12th October 1895

9/10/95

To the Govt Pleader

with enclosures for return

TO BE RETURNED WITH REPLY.

1895 Judl Dept. Enclos. No. To C. No. 4756

[ENG.; 20-1-91.]

CURRENT NO. 4756

Ref No. 1306

NELLORE COLLECTOR'S OFFICE.

14 September 1895

DESPd 5 OCT. 95

GOVT. PLEADER'S OFFICE, Date 14/10/95 MADRAS.

From C. D. Macleane, Esq.,

Collector and District Magistrate

of Nellore.

To the

Chief Secretary to Government

Judicial Department

Sir,

I have the honor to forward records in Calendar Case No 45 of 1895 on the file of the Sub Magistrate

2. The accused in the case was charged by the Police with having received stolen property from one Mallareddy who was separately charged with theft of the same, and convicted. The Sub Magistrate found the accused not guilty and acquitted him under Section 256 C.P.C.

3. Four witnesses were examined for the Prosecution. The 1st witness (owner of the property) deposed that the property stolen from his house included among other things 2 golden armlets and a silver waist ornament, broken into 2 pieces, that these were found by the Police in their investigation and that the offenders were convicted. The 2d witness, a Constable

[Eng.; 20-1-91.]

Stated that the 2 golden and 8 silver amulets were found in the possession of the accused during the Police investigation, that the golden amulets were those stolen from the house of the 1st Prosecution witness, and that a portion of the silver belt was said by Mullareddy to have been melted and made into 8 amulets by the accused. From the statement of the 3 witness, it is elicited that the accused handed over to the Police 2 golden and 8 silver amulets saying that they belonged to the theft case under investigation. The golden amulets before the Court were identified by the witness to have been those handed over by the accused to the Police, and the silver ones given to the Police were said by him (witness) to resemble those before the Court. The evidence of the 4th Prosecution witness, Police Inspector, shows that the accused first denied all knowledge of the possession of the stolen property but subsequently produced the amulets at the instance of Mallareddy saying that he melted the silver belt and made it into amulets. It is also said by the Inspector that Mallareddy told him that the silver belt formed a portion of the property stolen from the house of the 1st witness.

4. The accused admits the receipt by the amulets from Mallareddy and their seizure by the Police from him 4 or 5 days after, but pleads that Mullareddy had given them to him for custody. He further says that he never questioned Mullareddy as to whom the property belonged nor did the latter tell him anything about it, and that he believed the property to have belonged to Mallareddy.

5. From the foregoing evidence it will appear that the property was stolen and found in the possession of the accused. Accused admitted that he received it from Mullareddy, but denies that at the time he received the property he knew that it was stolen property. This plea can hardly be accepted. In my opinion his first denial to the Police Inspector of all knowledge of the property is very clear evidence of his dishonest intention. The Sub Magistrate

attributable the denial takes place of the Police. This assumption is gratuitous. I therefore request that the Government Prosecutor may be requested to move the High Court to have the order of acquittal set aside. The translations of the depositions and an extract from the diary are enclosed.

I have the honor to be,
Sir,
Your most obedient servant,

Government Pleader's Office,

HIGH COURT,

Madras, 18th October 1895.

No. 1065.

From

E. B. POWELL, Esq.,

GOVERNMENT PLEADER,

Madras,

To

THE Chief Secretary to Govt.
of St. George.

SIR,

Adverting to your office endorsement No. 2243 dated of the 12th instant I have the honor to submit the following:—

+ returned.

Opinion.

1. The accused having admitted receipt of the stolen property from the person who stole them, the only question before the Magistrate was whether he received the stolen property knowing or having reason to believe that the property was stolen property. The Magistrate was of opinion that no presumption can be drawn from the facts that the accused had reason to believe that the jewels were stolen.

2. The fact deposed to by the 4th witness that the accused knew that the silver belt had been converted into 8 silver amulets

amulets as well as the further fact that he (the accused) was asked to keep them concealed (see accused's statement) and accused's denial when first questioned as to his possession of the property, all lead to the almost irresistible conclusion that the accused must have known, or at any rate had good reason to believe the property to be stolen property.

3. I am of opinion the H'ble High Court will set aside the acquittal.

I have the honor to be,

Sir,

Your most obedt. Servant,

Government Pleader.

Judicial

CURRENT No. 4930

Cr. C. 4756 + 4930/95.

From

THE GOVERNMENT PLEADER,

Madras.

Dated 18-10-95

Recd. 19-

No. 1065.

UNDER SECRETARY 19 OCT 95 PUBLIC DEPTS.

ENCLOSURE. C.C. 4766 (with 3 Enc vide)

Submitting the opinion in C.C. No 45 of 1895 on the file of the Kota Sub Magte whether an appeal agst acqtl can be preferred.

MK 319/10

For orders.

As to whether an appeal may be preferred?

D
22.X.95

This seems to be a distinct case for appeal
2nd
22/10/95.

RM
23/10/95.

C.S.

Order 28th October 1895 No 2182

The Govt. Pleader will be instructed to prefer under Sec. 417 of the Cr.P.C. an appeal agt. the judgment of acquittal in C.C. No 45 of 1895 on the file of the Second Class Magte of Kota in the district of Kellore (Nellore).

RM
25/10/95

D
25-X-95

H.D.R. Kellore (Nellore) (Q No 6) Despd 1/11

H.G.P. with 6 Enclosures rcd.

4756-a
4930-b

Copy dft 31/10

When given for copying ——
When copied ——
When examined ——
When signed ——
} 189.

READ AGAIN G.O., No. 189, DATED

CURRENT No.

ENCLOSURES TO C. No

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT.								
STATEMENT WITH DITTO.								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

N.B.—
A = Copy in full.
B = Not to be copied.
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