

In re
BALAMBAL.

is convicted, as in this case, of "enticing away" a woman under section 498, Indian Penal Code, the woman cannot be guilty as an abettor.

We set aside the conviction of Balambal on a charge of abetting the enticing away of herself, and direct that her bail bond be discharged.

APPELLATE CRIMINAL.

Before Mr. Justice Davies and Mr. Justice Benson.

SINGARAJU NAGABHUSHANAM (ACCUSED), PETITIONER.*

1902.
October 7.

Penal Code—Act XLV of 1860, s. 500—Defamation—True statement that complainant had been convicted of theft and sent to jail—Conviction—Validity.

An accused, who was the trustee of a temple, was convicted of defamation, the alleged defamatory statement being that the complainant, who performed the worship in a temple, had been convicted and sent to jail for the theft of idols belonging to the temple. At the time when the statement was made, an appointment was in question in connection with the temple:

Held, on revision, that the accused was justified in making the statement, either in the interest of the temple, or because the statement was no more than a publication of the result of proceedings in a Court of Justice.

CHARGE of defamation under section 500 of the Indian Penal Code. The complainant was the priest performing the worship in the temples of Agasthyswara Swamy and Ramalingeswara Swamy in Pedana. The alleged defamatory matter was written on a post-card, which was sent to and received by complainant in the ordinary course of post. The Magistrate found that the signature on the card was that of the accused. The writing stated that some years previously the complainant had been sent to jail in connection with a case of theft of idols in the temple of Ramalingeswara Swamy. Complainant admitted that this was true. The Magistrate held, however, that this was immaterial. He convicted the accused, imposing a fine of Rs. 25 with an alternative of one month's rigorous imprisonment.

* Criminal Revision Petition No. 298 of 1902 presented under sections 435 and 439 of the Code of Criminal Procedure, praying the High Court to revise the conviction and sentence passed on the petitioner (accused) by K. V. Srinivasan, Head-Quarters Deputy Magistrate of Kistna, in Criminal Case No. 7 of 1902.

The accused preferred this Criminal Revision Petition.

P. Nagabhushanam for petitioner.

K. Sreenivasa Ayyangar for complainant.

SINGARAJU
NAGABHUSHANAM.

DAVIES, J.—I am unable to see wherein the defamation consists. The complainant had, as a matter of fact, been convicted of theft and sent to jail and that theft was of property belonging to the very temple the appointment to the “archakaship” of which was in question. There was no harm in the accused, who is the trustee of the temple, publishing that fact in order to forestall the complainant from setting up his rights in regard to a joint “archakaship” because it was in the interests of the temple that the trustee so acted. The conviction must be set aside and the fine, if levied, be refunded.

BENSON, J.—The statement alleged to be defamatory is that the complainant had gone to jail for having carried away certain idols. That statement was true, and the alleged defamatory statement was no more than the publication of the result of proceedings in a Court of Justice, which is specially declared to be no defamation by exception 4 to section 499 of the Indian Penal Code.

The conviction must be reversed and the fine, if levied, refunded.

APPELLATE CRIMINAL.

Before Mr. Justice Davies and Mr. Justice Benson.

MEYYAN AND ANOTHER (ACCUSED),

v.

EMPEROR (RESPONDENT).*

1902,
October 7.

Criminal Procedure Code—Act V of 1898, ss. 391, 407—Sentence of whipping by Second-class Magistrate—Appeal—Application for postponement of sentence till hearing of appeal—Refusal—Validity.

When a Second-class Magistrate passes a sentence of whipping only, without imprisonment, he has no power to postpone the execution of the sentence pending

* Case referred (Criminal Revision Case No. 147 of 1902) for the orders of the High Court in accordance with the proceedings of this Court, dated 9th September 1902, No. 1750 J, by A. G. Cardew, District Magistrate of Madura.