APPELLATE CRIMINAL.

Before Mr. Justice Waller and Mr. Justice Krishnan Pandalai.

IN RE ARUNACHALA REDDI (ACCUSED), PRISONER.* 1932, January 25.

Code of Criminal Procedure (Act V of 1898), sec. 190 (1) (c)—Information by offender himself amounting to a confession—Cognizance of offence on—Magistrate entitled to take—Confession—Admissibility in evidence of—Conditions—Evidence Act (I of 1872), ss. 24, 25 and 26—Sec. 164 of Code of Criminal Procedure—Effect of.

A magistrate, duly empowered to take cognizance of any offence under section 190 (1) (*c*) of the Code of Criminal Procedure, is entitled to record and act on the information furnished by the offender himself even though such information amounts to a confession. Confessions, like admissions, are relevant evidence under the Indian Evidence Act unless they are rendered inadmissible by circumstances which the Act declares to be of an invalidating nature. Examples of such circumstances are to be found in sections 24, 25 and 26 of the Act. Section 164 of the Code of Criminal Procedure does not exclude confessions otherwise admissible. It provides for the manner in which confessions made during a police investigation shall be recorded.

TRIAL referred by the Court of Session of the South Arcot Division for confirmation of the sentence of death passed upon the said prisoner in Case No. 44 of the Calendar for 1931.

N. Somasundaram for accused.

Public Prosecutor (*L. H. Bewes*) for the Crown.

Cur. adv. vult.

THE JUDGMENT of the Court was delivered by

WALLER J.—The appellant has been convicted of the murder of his maternal uncle and brother-in-law, Thirumalai Reddi. The main evidence against him is WALLER J.

* Referred Trial No. 174 of 1931.

ARUNACHALA REDDI, *In re.*

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his own confession (Exhibit A), corroborated by the evidence of P.W. 4 and by the fact that the cloths he had been wearing were stained with human blood. The first information of the occurrence was given by the appellant himself. After killing his uncle, he went straight to the nearest magistrate (P.W. 1) and told him what he had done. The magistrate told him to pull himself together and gave him an hour for reflection. At the end of that time, the appellant was still in the same mood and made a complete confession, which the magistrate recorded in the manner prescribed by section 164 of the Code of Criminal Procedure, which he need not have done, as the confession was not taken under that section. It is contended now, as it was contended in the Court below, that Exhibit A is inadmissible in evidence, because the investigation had not then begun. The Sessions Judge rejected the contention, holding that the magistrate was entitled, under section 190 (1) (*c*) of the Code of Criminal Procedure, to record and act on the information furnished by the appellant himself. His view was, in short, that an investigation by the police was not an indispensable condition for the initiation of proceedings against the appellant and that section 164 of the Code of Criminal Procedure applied only to confessions made during the course of an investigation by the police. Assuming that the magistrate was duly empowered to act under section 190 (1) (*c*), his view was correct. Apart from that, confessions, like other admissions, are relevant evidence under the Evidence Act, unless they are rendered inadmissible by some circumstance or circumstances which the Act declares to be of an invalidating nature. Examples of such circumstances are to be found in sections 24, 25 and 26 of the Indian Evidence Act. They do not exist here. Section 164 of the Code of Criminal Procedure

does not exclude confessions otherwise admissible. It provides for the manner in which confessions made during a police investigation shall be recorded. We must hold that Exhibit A was rightly admitted in evidence. The confession was made under circumstances that indicate that it was not merely true, but also made quite voluntarily. No doubt, the appellant has since retracted it, but the reason he gave for making a false confession, that he was so horrified at learning that his relatives were going to implicate him falsely and that he saved them the trouble by implicating himself, is so absurd as to deserve no consideration whatever.

In addition to the confession to P.W. 1 he is alleged to have confessed to several of the other witnesses while he was on his way to the magistrate. The Sessions Judge did not accept the evidence of those witnesses, but we can see no reason why they should have been disbelieved. The appellant obviously was in the mood to tell every one all about the affair and doubtless confessed to any of his acquaintance that he happened to meet. In addition to the confessions, there is the evidence of P.W. 4, which would by itself, if believed—and we can find no adequate ground for disbelieving it—be sufficient to bring home the charge to the appellant. There is also the fact that the cloths which he was wearing when he was arrested were stained with human blood.

The conviction is right. The only sentence that seems appropriate is that which has been imposed. Both it and the conviction are confirmed and the appeal is dismissed.

K.N.G.