

**Emperor Vs. Asha Bhathi**

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**Court :** Mumbai

**Decided On :** Jul-17-1913

**Reported in :** (1913)15BOMLR998

**Judge :** Batehelor and ;Shah, JJ.

**Appeal No. :** Criminal Reference No. 49 of 1913

**Appellant :** Emperor

**Respondent :** Asha Bhathi

**Judgement :**

1. This is a reference by the learned Sessions Judge of Ahmedabad in connection with certain proceedings upon the record of the First Class Magistrate of Kaira, Mr. Dosabhai Dhunjibhai Billiraoria. Before that learned Magistrate, one Asha Bhathi and three others were charged with theft under Section 379 of the Indian Penal Code. The Magistrate drew up a charge against the three accused, but instead of trying them upon that charge himself, he has committed them for trial to the Court of Session on the ground that the cases are connected with another case in which he felt bound by law to commit. It appears, however, that the connection between these two cases is not of such a character as to embarrass or prejudice the accused if the course prescribed by the Criminal Procedure Code is followed. We think that the reason, which the learned Magistrate gave for committing is not good in law or in fact, and that under Section 254 of the Criminal Procedure Code it was

the Magistrate's duty to frame in writing a charge against the accused and then to proceed as described in Sections 256 and the following.

2. We must, therefore, quash this commitment and direct the Magistrate to conclude the trial himself. In so doing we take occasion to observe that it is for many reasons undesirable in practice that our already over-burdened Courts of Session should be still further burdened with the weight of cases committed to them by Magistrates where such Magistrates are themselves competent to decide the cases and no overriding reasons exist for committal to the higher Court.

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