Yeshwant Hari and ors. Vs. the State

Yeshwant Hari and ors. Vs. the State

SooperKanoon Citation : sooperkanoon.com/349760

Court : Mumbai

Decided On : Jan-19-1956

Reported in : AIR1956Bom500; 1956CriLJ878

Judge : Bavdekar, J.

Acts : Code of Criminal Procedure (CrPC) , 1898 - Sections 209 and 210; Indian Penal Code (IPC), 1860 - Sections 201

Appeal No. : Criminal Revn. Appln. No. 1415 of 1955

Appellant : Yeshwant Hari and ors.

Respondent : The State

Advocate for Def. : Government Pleader

Advocate for Pet/Ap. : R.G. Samant, Adv.

Judgement :

1. This is an application for revision from an order passed by the learned Sessions Judge, North Satara, at Sacara, directing the committal of four accused persons who had been discharged by the learned Magistrate who held the committal proceedings. The reason which the learned Sessions Judge gave as to why he would direct the committal was that the learned trial Magistrate had approached the case from a wrong point of view. He weighed the evidence himself for the

purpose of finding out as to whether the accused persons were guilty of the offences with Which they were charged. That is not for the learned Magistrate to do, but what has got to be found out is whether there was evidence upon which the accused ought to be placed before a Court for trial.

If the evidence was such that no reasonable Court or jury would convict the accused upon it, then it is not a case which ought to have been committed. But if the evidence was such upon which a view could reasonably be taken that the accused person is guilty, then the case is one for committal. In this case, it is obvious from the judgment of the learned trial Magistrate that he did not look at the case from that point of view. He weighed the evidence for the purpose of finding out as to whether he believed it himself.

2. Even so I find that so far as the order directing the committal of the accused person on the charge of having beaten Rangubai is concerned, there was no evidence. The only evidence with regard bo accused I having beaten Rangubal is the statement of a co-accused which is deposed to by one of the witnesses. Now, this statement of one co-accused that another accused had beaten Rangubai was obviously not admissible in evidence.

3. Coming next to the case the offence under Section 201 here again there was no evidence against accused 1. It is obvious therefore that so far as accused 1 is concerned the order directing his committal to the Court of Session must be set aside. Bail bond of accused 1 is cancelled.

4. There was however evidence as against accused 2, 3 and 4 of Muktabai that accused 3 and 4 had cleansed the earth with water at the instanceof accused 2. This evidence was supported by Janabai wife of Bhiku, though he does not say that accused 2 told accused 3 and 4 to remove the stains of blood. She stated in cross examination that accused 2 himself had rubbed the blood.

In any case, as the learned Sessions Judge rightly points out there was evidence against accused 2 to 4 with regard to their having committed an offence under Section 201, Penal Code, and even though there were in it the defects pointed out by the learned trial Magistrate, it could not be said that the evidence was not such

upon which any reasonable jury would convict. There was consequently a case which had to be submitted to the tribunal which was to try the accused.

5. The order directing committal of accused2 to 4 by the Sessions Judge to take their trialunder Section 201 would therefore stand. Even soin view of the infirmities which have been pointetdout by the learned trial Magistrate, accused 2 to4 are allowed to remain on the same bail ofRs. 500/- each as present. The Sessions Judgeshould call upon the accused to appear before himand furnish a fresh bond, failing which he shouldcommit these accused to custody.

6. Order accordingly.