

In Re: Kotta Narayan and ors.

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SooperKanoon Citation : sooperkanoon.com/425589

Court : Andhra Pradesh

Decided On : Aug-12-1957

Reported in : 1958CriLJ1288

Judge : Srinivasachari, J.

Appellant : In Re: Kotta Narayan and ors.

Judgement :

ORDER

Srinivasachari, J.

1. These are applications for the grant of bail on behalf of three accused persons who have been committed to the Sessions by the Magistrate of Siddipet. As against twelve persons charges were laid Under Sections 148, 149, 324, 325 and 302 I.P.C. read with Section 34 I. P, C After they were produced before the Magistrate the prosecution examined two witnesses. The Medical Officer's evidence was recorded and after examining the accused the Magistrate committed the case to Sessions to take their trial under the above sections.

Before the Sessions Judge an application for the grant of bail was filed on behalf of the accused who were committed to the sessions. The argument advanced in support of the application for bail was that according to Section 207(a) of the Criminal Procedure Code the Magistrate ought to have insisted upon the prosecution examining all eye-witnesses and the committal order made on the

evidence of only two witnesses who were examined was not according to law.

The Sessions Judge has accepted this argument and has recommended to this Court that this committal order should be quashed on this ground alone. I do not think that the Sessions Judge is correct in his opinion, as if it were so held it would leave no discretion to the committing Magistrate to commit the accused to Sessions where all the witnesses relied on by the prosecution were not examined by the prosecution.

There is in my opinion a discretion vested in the Magistrate if he is satisfied that a prima facie case is made out, to commit the accused to Sessions after the examination of the witnesses produced by the prosecution, not necessarily all the witnesses relied upon by the prosecution. This order in my opinion cannot stand. The Sessions Judge however rejected the application for the grant of bail on the ground that the matter had been sent up to the High Court.

2. The learned Counsel for the petitioners argues that this is a case where both the parties were having a free fight and it has not been determined as to who were the aggressors and in case of this kind the court ought to exercise its discretion in favour of granting the bail. It is unnecessary to refer to the authorities cited by him because each case stands on its own facts and circumstances. The Sessions Judge while considering the bail applications has opined that at that stage he was not in a position to grant bail. He has also stated that the matter relating to the quashing of the committal order was being sent up to the High Court for final orders.

3. I am of the opinion that the accused could move the Sessions court and renew their applications for grant of bail at any stage of the trial if they so choose. These applications are therefore dismissed.

4. The case will now go to the Sessions Court for trial.