

Manphool and ors. Vs. the State

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Court : Madhya Pradesh

Decided On : Nov-25-1959

Reported in : AIR1960MP177

Judge : A.H. Khan, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 207A, 233 and 417(3); Indian Penal Code (IPC) - Sections 307

Appeal No. : Criminal Revn. No. 159 of 1959

Appellant : Manphool and ors.

Respondent : The State

Advocate for Pet/Ap. : J.P. Gupta, Adv.

Disposition : Reference disallowed

Judgement :

ORDER

A.H. Khan, J.

1. This is a reference by the Additional Sessions Judge, Morena, recommending to the High Court that a complaint filed by Bajranglal in respect of an offence under Section 307, I.P.C. and a challan submitted in respect of the same offence by the

Police may be amalgamated and the cases be tried jointly. In support of this recommendation the learned Additional Sessions Judge has relied upon decisions reported in *Bharat Kishore Lal v. Judhistir Modak*, AIR 1929 Pat 473 (FB), *U Po Yone v. Emperor*, AIR 1933 Rang 271 and *Mukania v. Achalia*, AIR 1952 Raj 160.

2. On referring to the record I find that Bajranglal complainant filed a complaint against 15 persons and the Magistrate after recording the evidence under Section 202, Cr. P. C. found that there was prima facie case against six persons, namely, Virbal, Bihari, Shishupal, Kandiya, Gangadhar and Gyasiya and he fixed the date for further proceedings against these six persons. Subsequent to the filing of this' private complaint, in respect of the same matter, the Police filed a Challan under Section 307, I.P.C. against five persons, namely, Bihari, Shishupal, Gyasiya, Ramchand and Manphool. Of these Bihari, Shishupal, Gyasiya, are common accused in the complaint and the Challan. All the accused filed an application before the trial Court that both the complaint case and the Challan of the Police should be tried together. The Magistrate rejected this application against which the accused filed a revision before the Additional Sessions Judge, who has referred the case to the High Court.

3. I think the Magistrate is justified in holding an enquiry separately for two reasons:

First, that the inquiry in the complaint case will be held under Section 203 of the Cr. P. Code, whereas the inquiry in the case challaned by the Police will be held under Section 207A of the Cr. P. Code. The two procedures are different and if both the cases are amalgamated, the question will be under which of the two procedures the inquiry should be held.

Two, in the event the accused are eventually tried and acquitted, the complainant will have a right of appeal under Section 417 (3) of the Cr. P. Code.

Thus it is for good reasons that the inquiry is being held separately.

4. The cases referred to in the decision of the learned Additional Sessions Judge were cases decided by the High Court before the amendment of the Criminal

Procedure Code in 1955 (Act No. 26 of 1955). It is therefore unnecessary to examine them,

5. For reasons stilted above, the reference is disallowed.

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