

Gopalan Vs. State of Kerala

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Court : Kerala

Decided On : Nov-09-1960

Reported in : AIR1961Ker196

Judge : P.T. Raman Nayar, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 207A, 207A(10), 215 and 561A

Appeal No. : Criminal M.P. Nos. 334 and 335 of 1960

Appellant : Gopalan

Respondent : State of Kerala

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : V.R. Krishna Iyer and; R. Krisnaswamy, Advs.

Judgement :
ORDER

P.T. Raman Nayar, J.

1. This seems to be a case where there is no evidence at all to prove the charge of wife-murder levelled against the accused so that if his commitment on the charge of murder were under Section 213 of the Criminal Procedure Code there would

have been a point of law justifying the quashing of that commitment under Section 215. The commitment in this case is, however, under Section 207A and since the legislature forgot to put that section in Section 215 when it made special provision in the shape of Section 207A for commitment in proceedings instituted on a police report thus taking such commitment out of the scope of Section 213, it might be that Section 215 does not in terms apply.

That being so Section 561A would at once be attracted --see *Pavalappa v. State of Mysore*, (S) AIR 1957 Mys 61 and *Tribeni Kahar v. State of Bihar*, AIR 1960 Pat 131 and the unintended result might well be that the quashing of a commitment made under Section 207A is not subject to the limitation in Section 215 that it can be only on a point of law, and that the High Court can quash a commitment under Section 561A so long as it considers that necessary to prevent abuse of the process of the Court or otherwise to secure the ends of justice, a requirement which might in some respects be wider and in some respects narrower than a point of law within, the meaning of Section 215.

However, having regard to what I think was a mere accident, namely, the omission to name Section 207A also in Section 215, I am prepared to import into interference under Section 561-A in respect of a commitment under Section 207A, the further requirement that there must be a point of law. That, as I have already said, there is in this case; and, I should think, that if a man is to go before Sessions to be tried on a charge of murder when there is no evidence at all against him, that would be a grave miscarriage of justice so that a quashing of the commitment would be necessary to secure the ends of justice. Thus it seems to me that the requirements, of both Sections 561A and 215 are satisfied in this case.

2. (After discussion of evidence his Lordship concluded:) Accepting all the evidence adduced on behalf of the prosecution to be true--and it is purely circumstantial--it can by no stretch of imagination or ingenuity forge a chain of guilt. That being so the case is, as I said at the very beginning, a case of no evidence at all.

3. I allow the petition and quash the commitment of the accused.

