

**Mst. Ponia Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/752632](http://sooperkanoon.com/752632)

**Court :** Rajasthan

**Decided On :** Jan-18-1952

**Reported in :** AIR1953Raj122

**Judge :** Sharma, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 254

**Appeal No. :** Criminal Ref. No. 369 of 1951

**Appellant :** Mst. Ponia

**Respondent :** State

**Advocate for Def. :** Ram Avtar, Govt. Adv.

**Advocate for Pet/Ap. :** Gaffar Ali, Adv.

**Disposition :** Reference accepted

**Judgement :**

ORDER

**Sharma, J.**

1. This reference has been made by the Sessions Judge, Bharatpur recommending that the charge-sheet drawn up against the accused Bansi and Mst. Ponia under Section 309, Penal Code be quashed. The only evidence against

the accused is that a panchayat was being held on the bank of certain lake when Bansi, brother of Mst. Ponia applicant became unconscious and fell down into the lake. Ponia went to rescue him. This is also in prosecution evidence that the water in the lake was ankle deep. When this is the state of prosecution evidence there was hardly a case for drawing up a charge-sheet under Section 309 (attempt to commit suicide) against any of the two accused. I wonder how the learned Magistrate framed a charge under Section 309 on this evidence. (2) True it is that at the time of drawing up a charge-sheet it is not necessary to consider whether on the evidence the guilt was brought home to the accused beyond reasonable shadow of doubt. This question is to be considered at the time of the final decision of the case. But there should at least be a prima facie case for drawing up the charge. When the prosecution evidence itself far from making out a prima facie case against the accused afforded a defence to him, there was hardly any justification for drawing up the charge-sheet. The learned Government-Advocate himself frankly conceded that on the evidence on record no prima facie case under Section 309 was made out. I accept the reference, quash the charge-sheet and discharge the accused.

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