

Gopal Vs. State

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Court : Rajasthan

Decided On : Oct-29-1957

Reported in : AIR1958Raj152

Judge : K.L. Bapna and; D.M. Bhandari, JJ.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 207A and 208; Indian Penal Code (IPC) - Sections 307

Appeal No. : Criminal Ref. No. 38 of 1957

Appellant : Gopal

Respondent : State

Advocate for Def. : B.C. Chatterjee, Adv.

Advocate for Pet/Ap. : G.S. Bhargava, Adv.

Judgement :

K. L. Bapna, J.

1. This is a reference by the learned Sessions Judge, Jaipur City.

2. Kotwali Police, Jaipur produced a challan on 17-4-1956, against one Radhey Shyam for an offence under Section 307 I. P. C. triable by the court of session. The complainant Panchu subsequently, filed a complaint on 22-5-1956 against six

persons including Radhey Shyam for having committed the offence under Section 307 I. P. C. in respect of the same incident. The Assistant Collector and Magistrate First Class, Jaipur City passed an order consolidating the two proceedings and began to proceed against all the accused in one proceeding. An application was submitted on behalf of one of the accused Gopal that the procedure prescribed under Section 208 Cr. P. C. and subsequent sections be followed in the case. The Magistrate, however, preferred to proceed according to the procedure laid down in Section 207A of the Criminal Procedure Code. Gopal filed a revision and the learned Sessions Judge was of the view that as the complainant had been consolidated with the challan, the procedure under Section 208 Cr. P. C. and subsequent sections should have been followed in the case. In our opinion the initial mistake lay in consolidating the police challan with the complaint. According to the amended Criminal Procedure Code the procedure for enquiry in cases triable by the court of session on police report has been simplified and by tagging the police challan with the complaint the very purpose of expediting trial is frustrated. The procedure under Section 208 and subsequent sections is different and the reason for this difference is that while the police is not interested in one or the other party, the complainant is a person interested and satisfactory evidence is necessary to be recorded by the court before it comes to the conclusion that the accused should be committed.

3. We, therefore, direct that the challan should be separated from the complaint and while the challan may be proceeded against according to Section 207A of the Code, the procedure in respect of the complaint may be followed under Section 208 and subsequent sections. The two should be enquired into separately.