

In Re: Kamhala Narayan

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SooperKanoon Citation : sooperkanoon.com/775028

Court : Chennai

Decided On : Feb-24-1919

Reported in : (1919)36MLJ452

Appellant : In Re: Kamhala Narayan

Judgement :

1. It does not appear that the Sessions Judge has followed the directions contained in Section 309 of the Criminal Procedure Code which require him to give judgment after recording the opinion of the assessors, to convict if he finds the accused guilty and to pass sentence according to Law.

2. The circumstances that in this case, the accused is charged in the same trial with another offence triable by Jury (Section 269, Clause 3) of the Code of Criminal Procedure, that the Judge disagrees with the verdict of the Jury on that charge and desires to make a reference under Section 307 of the Criminal Procedure Code, do not, in our opinion, absolve the Sessions Judge from complying with the requirements of Section 309, as regards the offence tried by him with assessors.

3. The reference is therefore premature and we shall send back the case to the learned Sessions Judge to rectify the irregularity and then act according to law.