

In Re: Appaswami Mudali

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Court : Chennai

Decided On : Jul-28-1930

Reported in : (1930)59MLJ853

Appellant : In Re: Appaswami Mudali

Judgement :

ORDER

Krishnan Pandalai, J.

1. It is urged that the joint trial of the petitioner with two other persons who did not appeal to the Sessions Judge and have not applied to this Court was illegal.
2. The allegation against them was that all the three of them were together associates in a course of criminal conduct such as to bring them under Clauses (a)(d)(e) and (f) of Section 110 of the Criminal Procedure Code. In such cases Section 117(5) clearly gave the Magistrate, if he thought it just, the power to deal with all the accused in the same enquiry. But it is said that joint enquiries under Section 117 are not legal where part of the enquiry is under Clause (f) of Section 110 and for this the decision in In re Kutti Goundan : AIR1925 Mad189 which itself cites Hari Telang v. Queen-Empress I.L.R. (1900) C. 781 is relied upon. There is a sentence in the latter decision which is incorporated into the former to the effect that there can be no connection between them (the accused) in regard to their characters so as to make them dangerous persons. But this was not the ground of

decision in those cases which were decided on the ground that where several accused are being jointly tried under Section 110 evidence of misdeeds against each of them singly should not be admitted against the others as this will naturally prejudice these others. And Walsh, J., makes this clear in *Empress v. Angnu Singh* I.L.R. (1922) A. 109. More than this I think none of the cases cited before me go and I find myself unable to agree to the general proposition that where proceedings are taken under Section 110(f) several persons should not be dealt with together. The evidence of reputation admitted against them should, of course, not be against each accused separately but against them all together.

3. In this case as the judgment of the learned Sessions Judge shows, the evidence was clear that the petitioner along with the other two men were pursuing a course of extortion and terrorising for which they were all equally responsible and on which they had jointly earned the evil reputation to which several respectable witnesses spoke.

4. I can see no error or irregularity in the trial. The petition is dismissed.

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