

In Re: Sankaralingam

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Court : Chennai

Decided On : Mar-07-1956

Reported in : AIR1957Mad24; 1957CriLJ73; (1955)2MLJ185

Judge : Somasundaram, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 341

Appeal No. : Criminal Revn. Case No. 825 of 1955 (Case Refd. No. 24 of 1955)

Appellant : In Re: Sankaralingam

Advocate for Pet/Ap. : Public Prosecutor

Judgement :

ORDER

Somasundaram, J.

1. This is a reference by the District Magistrate under the following circumstances. A case has been filed against one Sankaralingam for the offence of murder. The case was enquired into by the Sub Magistrate, Tirunelveli. The accused is said to be deaf and dumb, and according to the committal order, with the assistance of P. W. 14, a teacher in the Deaf and Dumb school, Palayamcottah, the proceedings were interpreted to the accused, and the accused appeared to understand the proceedings as interpreted by P. W. 14.

As there was a prima facie case, the Sub Magistrate committed the accused to take his trial before the Sessions Judge for the offence of murder. Under Section 341, Criminal P. C. a sub magistrate can submit the proceedings after commitment only if the accused though not insane, cannot be made to understand the proceedings.

But once he has committed, the Sessions Judge has seisin of the case, and it is not open to him to write to the District Magistrate to ask the Sub Magistrate to refer the matter to the High Court, particularly in view of the fact that so far as the Sub magistrate was concerned he was of the opinion that the accused could be made to understand the proceedings and has understood the proceedings through the interpretation of P. W. 14.

In any event, under Section 341, Criminal P. C., the District Magistrate has no jurisdiction to refer the case, which is pending trial before the Sessions Judge. After ' it is committed by the Sub Magistrate after being ' satisfied that the accused can understand the proceedings it is only the sessions Judge, who has seisin of the case, that has to submit the proceedings in accordance with the provisions of Section 341, Criminal P. C.

The District Magistrate has no jurisdiction to refer this matter. This reference is therefore returned and the Sessions Judge will dispose of the case in accordance with the provision of Section 341, Criminal P. C.

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