

**Emperor Vs. Chellan and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/782184](http://sooperkanoon.com/782184)

**Court :** Chennai

**Decided On :** Sep-25-1905

**Reported in :** (1905)ILR29Mad91

**Judge :** Subrahmania Ayyar, Officating C.J.,; Boddam and; Sankaran Nair, JJ.

**Appellant :** Emperor

**Respondent :** Chellan and ors.

**Judgement :**

S. Subrahmania Ayyar, Offg. C.J.

1. The ordinary dictionary meaning of the word 'opinion,' in law is 'the formal decision of a Judge, an umpire, a councillor or other party officially called upon to consider and decide upon a difficulty or dispute.' The term, so far as we are aware, is not used to denote the reasons for the decisions themselves and we see nothing in the language of Clause 3 of Section 307 of the Criminal Procedure Code, to take the word 'opinions' in it to mean other than respective conclusions of, the jury and the Judge. The use of the word 'opinions' in the clause in preference to the term verdict was probably owing to the conclusions of the jury in the circumstances lacking the effect which would attach to it if there were no difference between the jury and the Judge in the matter. The first paragraph of Section 307 itself is practically conclusive in favour of this view, as there, 'opinion' is used in contradistinction to the 'ground' for such opinion. Section 305 of the

Code also supports 'the same view.' It provides inter alia for cases of disagreement in trials in High Courts and the expression employed there too is 'opinion'. The context of course precludes the word being understood as meaning the grounds for the conclusion instead of the conclusion itself. Now it is conceded that when the Judge and the jury agree the latter cannot be compelled to give reasons for their decision. And Section 303 which permits questions to be put to the jury in order to ascertain what their verdict is, negatives by implication a power on the part of the presiding Judge to question them otherwise. First to assume that the word 'opinion' in Section 307, Clause 3, means the reasons for the conclusion and next on such assumption to argue that the Code authorises the Judge in such cases to compel the jury to give them is not a legitimate mode of construction. The practice of the Court as shown by a large number of cases in which some or other of all the Judges of this Court have taken part and in which they proceeded to decide the references, though no reasons for the conclusion of the jury were elicited and submitted, is in accordance with the view we are taking. It follows therefore that, expedient as it may be to have before this Court, when any have been given, the reasons of the jury for the view taken by them in a particular case, the circumstances that no such reasons have been ascertained does not warrant this Court to decline to go into the evidence and to arrive at its own judgment after giving due weight to the views taken by the Judge and the jury as to the guilt or innocence of the accused.

2. Their Lordships then discussed the evidence.

3. Differing from the jury we convict the fifth, sixth and seventh prisoners and sentence them each to six years' rigorous imprisonment.

**Sankaran Nair, J.**

4. The learned Judges who first heard this, reference have differed in their opinion. Mr. Justice Davies holds that it requires powerful reasons to show that the Jury's verdict, uphold with reference to five of the accused is perverse with reference to the other three and as their opinion for their conclusion which he considers to be distinct from their verdict is not before us, it is impossible to say they are wrong

upon the one-sided opinion of the Judge alone, the Code requiring us to give due weight to the opinion of the jury; Mr. Justice Benson holding that the vordiot is their opinion came to the conclusion that on the evidence the accused are guilty. I concur with the Officiating Chief Justice and Boddam, J., in holding that once the case is referred to the High Court under Section 307 we have to form our own opinion on the evidence. After going into the evidence His Lordship agreed with the jury and acquitted the accused.

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