

**In Re: Sagili Solomon**

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**Court :** Chennai

**Decided On :** Jul-23-1951

**Reported in :** AIR1952Mad177; (1951)2MLJ423

**Judge :** Govinda Menon and ;Ramaswami, JJ.

**Acts :** Code of Criminal Procedure (CrPC) , 1908 - Sections 342

**Appeal No. :** Criminal Appeal No. 894 of 1950

**Appellant :** In Re: Sagili Solomon

**Advocate for Def. :** Public Prosecutor

**Advocate for Pet/Ap. :** O. Chinnappa Reddi, Adv.

**Judgement :**

**Govinda Menon, J.**

1. It has been repeatedly held, not only by their Lordships of the Privy Council, but also by this Court that the omission to strictly comply with the terms of Section 342, Criminal P.C., vitiates the trial In 'Dwaraknath Varma v. Emperor 64 Mad L. J. 466 the Privy Council held that Section 342, Criminal P. C., ought to be strictly followed. This decision has been followed in 'Sangama Naicker', In re: 59 Mad 622.

2. In page 20 of the printed papers we find the questions put to the accused under Section 342, Criminal P.C., as follows:

Q: The statement made by you in the committing Court is read out to you now. Is it the one made by you and is it correct?

A: Yes, it is correct (marked as Ex. P. 16)

Q: Do you wish to say anything more in addition to that statement?

A: Nothing.

Q: Are there witnesses on your behalf?

A: no.

We do not find any question put by the learned Judge asking the accused to explain the circumstances that have been proved against him. In our opinion, the mere fact that the accused is asked whether he wishes to say anything more in addition to what he has stated in the committing Court is not sufficient. The learned Public prosecutor invites our attention to the fact that in the committal Court there has been a complete and full questioning of the accused, but that in our opinion is not sufficient because it is obligatory upon the Sessions Judge to put the evidence against the accused to him and elicit answers from him. Therefore, we are of opinion that the trial is vitiated by this circumstance.

3. The conviction and sentence are set aside and the accused will be retried by the present Sessions Judge of Cuddappah.

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