

**In Re: Sadayan**

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**SooperKanoon Citation :** [sooperkanoon.com/793200](http://sooperkanoon.com/793200)

**Court :** Chennai

**Decided On :** Nov-11-1908

**Reported in :** 4Ind.Cas.1126

**Judge :** Wallis and ;Abdur Rahim, JJ.

**Appellant :** In Re: Sadayan

**Judgement :**

ORDER

1. So far as we can see it would appear that in this case the application to withdraw the charge of murder not having been made by the Public Prosecutor, or if made, should not have been sanctioned by the Court, but the section says, that when the Public Prosecutor withdraws and the Court approves, of it the accused shall be acquitted and neither the Public Prosecutor nor the Judge is called on to give any reasons for his action, and this Court has no means of ascertaining what the reasons were. It appears to us that under the circumstances which here happened the accused has a statutory right to an acquittal with which we have no power to interfere. We have been referred to Crl. Rev. Case No. 274 of 1907, in which this Court on revision set aside a similar order but the order does not show the authority under which the Court acted and we are unable to agree with the decision.

2. Certain questions were asked him by the Sessions Judge, the answers to which appear to amount to confessions of murder and robbery, but the Sessions Judge

was not justified in questioning the prisoner at this stage as no evidence has yet been recorded, which the accused could be required to explain, and further the questions appear to be in the nature of cross-examination which is not justifiable. If the accused pleaded guilty on the charge of robbery, the plea should have been recorded in the same way as his plea of not guilty on the murder charge, but no such plea appears on the record, and consequently the conviction is bad and it must be set aside and a new trial ordered on the charge of robbery.

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