

In Re: K. Sellandi

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Court : Chennai

Decided On : Nov-20-1913

Reported in : AIR1914Mad149(2); (1915)ILR38Mad552

Judge : Millar, J.

Appellant : In Re: K. Sellandi

Judgement :

ORDER

Millar, J.

1. In this case the Magistrate has found the accused Miler, J. guilty, and then committed him to the Court of Sessions under Section 348, Criminal Procedure Code. The effect of the conviction would seem to be that Section 403, Criminal Procedure Code, would bar the trial by the Court of Sessions.

2. It is not entirely easy to deal satisfactorily with cases under Section 348. The Magistrate is bound to commit if there has been a previous conviction of one of the offences described unless he can adequately punish the accused; consequently he must either as a preliminary matter or at any rate before framing a charge determine whether there has been a previous conviction; having decided that point, he will have to consider whether in the circumstances of the case his powers enable him to pass sufficiently severe sentence. If he thinks they do so permit, he may either commit the accused for trial or try him himself: if they do not so permit,

but the evidence does not warrant the discharge of the accused, he must frame a charge under Section 210 of the Code and commit him for trial under chapter XVIII.

3. In the present case I set aside the conviction and direct the Magistrate to frame a charge under Section 210 and commit the accused for trial before the Court of Sessions.

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