

In Re: Appasamy Mudali

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Court : Chennai

Decided On : Jul-28-1930

Reported in : 128Ind.Cas.449

Judge : Pandalai, J.

Appellant : In Re: Appasamy Mudali

Judgement :

ORDER

Pandalai, J.

1. It is urged that the joint trial of the petitioner with two other persons who did not appeal to the Sessions Judge and have not applied to this Court was illegal. The allegation against them was that all the three of them were together associated in a course of criminal conduct such as to bring them under Clauses (a), (d), (e) and (f), Section 110, Criminal Procedure Code. In such cases Section 117(5) clearly gave the Magistrate, if he thought it just, the power to deal with all the accused in the same inquiry. But it is said that joint inquiries under Section 117 are not legal where part of the inquiry is under Clause (f), Section 110, and for this the decision in In re Kutti Goundan 86 Ind. Cas. 49 : 47 M.L.J. 689 : (1925) M.W.N. 57 : 26 Cr. L.J. 673 : A.I.R. 1925 Mad. 189, which itself cites Hari Telang v. Queen Empress 27 C. 781 : 4 C.W.N. 531, is relied upon. There is a sentence in the latter decision which is incorporated into the former to the effect that there can be no connexion

between them (the accused) in regard to their characters so as to make them dangerous persons. But. this was not the ground of decision in those cases which were decided on the ground that where several accused are being jointly tried under Section 110 evidence of misdeeds against each of them singly should not be admitted against the others as this will naturally prejudice these orders. And Walsh, J., makes this clear in Emperor v. Angu Singh 71 Ind Cas. 865 : A.I.R. 1923 All. 35 : 45 All. 109 : 20 A.L.J. 881 : 24 Cr. L.J. 257. More than this, I think none of the cases cited before me go to show and I find myself unable to agree to the general proposition that where proceedings are taken under Section 110(f) several persons should not be dealt with together. The evidence of reputation admitted against them should, of course, not be against each accused separately but against them all together. In this case, as the judgment of the learned Sessions Judge shows, the evidence was clear that the petitioner along with the other two man were pursuing a course of extortion and terrorizing, for which they were all equally responsible and on which they had jointly earned the evil reputation to which several respectable witnesses spoke. I can see no error or irregularity in the trial. The petition is dismissed.

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