

**Emperor Vs. SayeruddIn Pramanik**

**Emperor Vs. SayeruddIn Pramanik**

**SooperKanoon Citation :** [sooperkanoon.com/872625](http://sooperkanoon.com/872625)

**Court :** Kolkata

**Decided On :** Mar-01-1938

**Reported in :** AIR1939Cal159

**Appellant :** Emperor

**Respondent :** SayeruddIn Pramanik

**Judgement :**

**Jack, J.**

1. This is a reference by the Sessions Judge of Rajshahi under Section 435, Criminal P.C., for quashing a commitment made to his Court by the Magistrate of Natore in the case of Emperor v. Sayeruddin Pramanik under Sections 363 and 376, I.P.C. After the jury had been empanelled and the Public Prosecutor had started the case for the prosecution, it was noticed by the Court that the occurrence took place within Nandigram police station which had been transferred by the Local Government from the jurisdiction of Natore sub-division of Rajshahi District to the Sadar sub-division of Bogra District. The learned Judge is therefore of opinion that since the place of occurrence is now within the local jurisdiction of the district of Pabna and Bogra, he has no jurisdiction to try the case. He therefore recommends that the commitment having been by a Magistrate without local jurisdiction to a Sessions Court without local jurisdiction it should be quashed and that the Magistrate should be asked to hold a fresh preliminary enquiry and take

such further steps as might be necessary.

2. In this case, the occurrence took place on 20th October 1937. The first information was given on 22nd October; the Magistrate took cognizance on 22nd November. The transfer of the thana in which the occurrence took place was notified on 14th December. The case was committed to the Sessions Court on 12th January and trial commenced on 15th February. Under Section 177, Criminal P.C., every offence shall ordinarily be enquired into and tried by a Court within the local limits of whose jurisdiction it was committed. As this offence was committed within the local jurisdiction of the Magistrate who took cognizance, he was authorized under Section 177, Criminal P.C., to try the case or to commit it to Sessions. The fact that the locality in which the offence was committed was subsequently transferred to another district did not oust the jurisdiction of the Magistrate. Since he had jurisdiction to take cognizance, he had jurisdiction to commit the case to the Sessions Court. If any authority for this is required, it would be found in *Emperor v. Mahabir* (1911) 33 All. 573. In that case, it was held that the subsequent transfer of territory did not deprive the Court in which the appeal had been filed of its jurisdiction to hear it. In *Emperor v. Ram Naresh Singh* (1912) 34 All. 118 it was held that the Sessions Court was not deprived of jurisdiction to dispose of the case which had been committed to it for trial inasmuch as the place at which the offence had been committed had, in the meantime, been transferred to a Native State. In *Emperor v. Ganga* (1912) 34 All. 451 the offence was committed at a place which was then part of the Mirzapore District. Subsequently, one of the persons alleged to have taken part in the commission of such offence was arrested in Bengal and sent to Mirzapore, where he was committed by the joint Magistrate to take his trial before the Court of Session. In the meanwhile the place where the offence was committed had ceased to be British territory. It was held that this fact did not oust the jurisdiction of either the Magistrate or the District Judge of Mirzapore. The attention of the learned Sessions Judge is drawn to Section 531, Criminal P.C., which lays down:

No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the enquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong Sessions Division, District, Sub-division

or other local area, unless it appears that such error has, in fact, occasioned a failure of justice.

3. Therefore, even if the committing Magistrate had no territorial jurisdiction at the time of the commitment and it were considered that he had on that account no jurisdiction to make the commitment, such want of jurisdiction would not be a good ground for setting aside the order of commitment. This reference is accordingly rejected and the trial will proceed from the stage which it has reached. Let the record if any and this order go down as soon as possible.

**Khundkar, J.**

4. I agree. It seems to me that neither the Sessions Judge nor the Public Prosecutor considered the provisions of Section 531, Criminal P.C. It is perfectly clear that the order of commitment was an order within the meaning of the Section and it was certainly made in the course of a proceeding, i. e. the enquiry preliminary to the commitment which, at the time of the order, was in a wrong Sub-division. It has not been even suggested that the order of commitment has occasioned any failure of justice. The commitment; was, in fact, made to the only Court to which the Magistrate of Natore had the power to commit. There is therefore no substance in this reference.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**