

(1960) 11 KL CK 0037

High Court Of Kerala

Case No: None

Gopalan

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision: Nov. 9, 1960

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 213, 215, 52

Citation: (1961) CriLJ 91

Hon'ble Judges: P.T. Raman Nayar, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

P.T. Raman Nayar, J.

This seems to be a case where there is no evidence at all to prove the charge of wife-murder levelled against the accused so that if his commitment on the charge of murder were u/s 213 of the Criminal Procedure Code there would have been a point of law justifying the quashing of that commitment u/s 215. The commitment in this case is, however, u/s 207A and since the legislature forgot to put that section in Section 215 when it made special provision in the shape of Section 207A for commitment in proceedings instituted on a police report thus taking such commitment out of the scope of Section 213, it might be that Section 215 does not in terms apply.

That being so Section 561A would at once be attracted - see Pavalappa v. State of Mysore, AIR 1957 Mys 61 and [Tirbeni Kahar Vs. State of Bihar](#), and the unintended result might well be that the quashing of a commitment made u/s 207A is not subject to the limitation in Section 215 that it can be only on a point of law, and that the High Court can quash a commitment u/s 561A so long as it considers that necessary to prevent abuse of the process of the Court or otherwise to Secure the ends of justice, a requirement which might in some respects be wider and in some

respects narrower than a point of law within the meaning of Section 215.

However, having regard to what I think was a mere accident, namely, the omission to name Section 207A also in Section 215, I am prepared to import into interference u/s 561-A in respect of a commitment u/s 207A, the further requirement that there must be a point of law. That, as I have already said, there is in this case; and, I should think, that if a man is to go before Sessions to be tried on a charge of murder when there is no evidence at all against him, that would be a grave miscarriage of justice so that a quashing of the commitment would be necessary to secure the ends of justice. Thus it seems to me that the requirements of both Sections 561A and 215 are satisfied in this case.

2. After discussion of evidence his Lordship concluded : Accepting all the evidence adduced on behalf of the prosecution to be true - and it is purely circumstantial - it can by no stretch of imagination or ingenuity forge a chain of guilt. That being so the case is, as I said at the very beginning, a case of no evidence at all.

3. I allow the petition and quash the commitment of the accused.