

can find no authority for placing this narrow construction on the words "falsely charged" and on principle I can find no good reason for adopting such a construction.

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As regards the fourth accused, the case is much stronger inasmuch as the charge made by him was reduced into writing and signed by him.

I think there was evidence that accused, Nos. 1 and 4 "falsely charged" the prosecution witnesses within the meaning of section 211 of the Code.

As regards the question of misjoinder it is true the false charge of stealing goats was made by the first accused on one day and by the fourth accused on the following day. I think the offence was the same, viz., a false charge that certain persons stole certain goats and that the first and fourth accused were properly tried together.

As regards the sentence I think a distinction can be drawn between the case of the first and fourth accused. The fourth accused persisted in the charge. The first withdrew it, or at any rate made up his mind not to proceed with it at a very early stage.

In the case of the first accused I reduce the sentence of eighteen months' rigorous imprisonment to nine months' rigorous imprisonment.

As regards the fourth accused the petition is dismissed.

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## APPELLATE CRIMINAL.

*Before Mr. Justice Benson and Mr. Justice Bhashyam Ayyangar.*

CHEENNA MALLI GOWDA (ACCUSED), APPELLANT,

v.

EMPEROR, RESPONDENT.\*

1903.  
February 27.

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*Penal Code—Act XLV of 1860, s. 211—Preferring a false charge—“Charge” made to Village Magistrate—Sustainability.*

An accusation of murder made to a Village Magistrate (who, under section 13 of Regulation XI of 1816, has authority to arrest any person whom he suspects of

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\* Criminal Appeal No. 782 of 1902, presented against the sentence of Verner A. Brodie, Sessions Judge of Coimbatore Division, in Case No. 122 of the Calendar for 1902.

CHENNA  
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v.  
EMPEROR.

having committed the murder of a person whose body is found within his jurisdiction) is a "charge" within the meaning of section 211 of the Indian Penal Code, even though it does not amount to the institution of criminal proceedings and even though no criminal proceedings follow it owing to the police referring it as false on investigation.

CHARGE of preferring a false charge of murder, under section 211, Indian Penal Code. The charge was made by the accused in the first instance to the Village Magistrate. The Sessions Judge convicted and sentenced the accused.

The accused preferred this appeal.

Mr. *D. Chamier* for accused.

Mr. *J. G. Smith* for the Public Prosecutor.

JUDGMENT.—There can be no reasonable doubt that the appellant falsely accused three men of having murdered his brother and that he knew the accusation to be false. The accusation was made, in the first instance, to the Village Magistrate who, under section 13, Regulation XI of 1816, has authority to arrest any person whom he suspects of having committed the murder of a person, whose body is found, as it was in this case, within his jurisdiction.

Such an accusation made to a Village Magistrate is, we think, a "charge" within the meaning of section 211, Indian Penal Code, even though it does not amount to the institution of criminal proceedings and even though no criminal proceedings follow it owing to the police on investigation referring the charge as false.

On this ground, we think the conviction is right, and it is not necessary to consider the subsequent complaint made to the Subordinate Magistrate, which complaint was substantially, though, perhaps not technically, dismissed.

We dismiss the appeal.