

Re BATH
REDDI.
AYLING, J.

relate to trials before a Sessions Court, where the accused's plea of guilty is recorded under section 271 at the outset of the trial. No doubt a prisoner who then pleads guilty and is convicted on his plea cannot be held to be tried jointly with others (co-accused) against whom the case proceeds under section 272. But the present case is quite different. All the accused were jointly tried before the Magistrate, and their pleas were not recorded until after the close of the prosecution evidence, and after the recording of their statements now in question, I can see no reason why statements made under these circumstances should not be taken into consideration under section 30, Indian Evidence Act.

No other ground is shown for interference and the petition is dismissed.

APPELLATE CRIMINAL.

Before Mr. Justice Ayling.

Re SUBRAMANIA AYYAR (ACCUSED), PETITIONER.*

1913.
August 1.

Magistrates, bench of—Magistrate, convicting who has not heard all the evidence—Criminal Procedure Code (Act V of 1898), sec. 530.

Where the trial of the accused was commenced before a Bench of four Magistrates who heard part of the evidence and continued before the same four Magistrates and another who had joined as the fifth, and all the five Magistrates deliver judgment convicting the accused.

Held, that the conviction was vitiated and that there must be a re-trial.

PETITION under sections 435 and 439 of the Code of Criminal Procedure (Act V of 1898), praying the High Court to revise the judgment of A. PUSHPANATHA PILLAI, the First-class Sub-Divisional Magistrate of Mayavaram, in Criminal Appeal No. 3 of 1913 (Special Tribunal No. 620 of 1912 on the file of V. GOVINDASWAMI, the Stationary Second-class Magistrate of Mayavaram).

The facts of this case are stated in the following order:—

T. S. Rajagopala Ayyar for the petitioner.

J. O. Adam for the Public Prosecutor on behalf of the Government.

* Criminal Revision Case No. 155 of 1913 (Criminal Revision Petition No. 133 of 1913).

ORDER.—In this case the petitioner was convicted by a Bench of five Magistrates, one of whom had not heard all the evidence. This vitiates the conviction—*vide* section 530 of the Criminal Procedure Code, and *Hardwar Sing or Lall v. Khega Ojha*(1) [followed in *Queen-Empress v. Basappa*(2)] and *Damri Thakur v. Bhowani Sahoo*(3). The conviction and sentence are set aside, and a retrial is ordered.

Re SUBRA-
MANIA
ATTYAR.
—
AYLING, J.

APPELLATE CRIMINAL.

Before Mr. Justice Ayling.

Re K. VENKAPPA AND FOUR OTHERS (ACCUSED),
PETITIONERS.*

1913.
August
15 and 18.

Indian Penal Code (Act XLV of 1860), sec. 283—Obstruction, causing of—Whether necessary to prove any particular individual obstructed.

Where the evidence showed that an obstruction placed on a road must necessarily prevent vehicles from passing at all and foot-passengers from passing without inconvenience.

Held, that it is a necessary inference that persons were obstructed and that it is not necessary to expressly prove that any specific individual was actually obstructed.

The Queen v. Khader Moidin (1882) I.L.R., 4 Mad., 235, not followed.

Queen-Empress v. Virappa Chetti (1897) I.L.R., 20 Mad., 433, commented on.

PETITION under sections 435 and 439 of the Code of Criminal Procedure (Act V of 1898), praying the High Court to revise the judgment of V. PARABRAHMA SASTRI, the Head-quarters Deputy Magistrate, Kurnool Division, in Calendar Case No. 1 of 1913.

In this case, the accused were convicted of having caused obstruction to the public road by leaving a “prabha” on the road and thus of having committed an offence under section 283, Indian Penal Code.

The evidence as to the “prabha” being an obstruction was that of the Sub-Inspector of Police who stated, “the accused leaving

(1) (1893) I.L.R., 20 Calc., 370.

(2) (1895) I.L.R., 18 Mad., 394.

(3) (1896) I.L.R., 23 Calc., 195.

* Criminal Revision Case No. 149 of 1913 (Criminal Revision Petition No. 129 of 1913).