

PARTHA-
SARATHI
NAICKER
v.
KRISHNA-
SWAMI
AYYAR.

was not justified in awarding compensation to the accused. It is only after the examination of all the evidence the complainant wanted to adduce, that he could come to the conclusion that the case was false and vexatious. No doubt he was entitled at any stage to discharge the accused, but that would not be a ground for awarding compensation to the accused. I therefore set aside the order of compensation and direct the amount, if recovered, to be refunded to the petitioner.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Wallace.

BODIPATTI LALAMMA AND TWO OTHERS (ACCUSED),
PETITIONERS.*

1927,
February 3.

*Bench of Magistrates—Trial before—President in minority—
Judgment to be written by a member of the majority.*

Where, in a case tried by a Bench of Magistrates, the President of the Bench is in a minority as to conviction or acquittal, the judgment should be written by a member of the majority.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of the Bench of Magistrates of Narasaraopet in B.C. No. 224 of 1926.

Ch. Raghava Rao for petitioners.

Public Prosecutor for the Crown.

JUDGMENT.

In a case where the President of the Bench is in a minority as to conviction or acquittal, the judgment should be written by some member of the majority. Otherwise, as in the present case, we have a conviction

* Criminal Revision Case No. 849 of 1926.

based on an acquitting judgment, and we are left without any reasons for conviction which, under the provisions of the Criminal Procedure Code, the Bench is bound to set out. The judgment does not conform to the law and the conviction cannot be upheld. It is hereby set aside. The fines, if paid, should be refunded.

LALAMMA,
In re.

It is not a case for ordering retrial.

B.C.S.

APPELLATE CRIMINAL.

Before Mr. Justice Devadoss.

BONTU APPALA NAIDU AND SIX OTHERS (ACCUSED),
PETITIONERS *

1927,
October 14.

Criminal Procedure Code, (V of 1898), sec. 247—Summons case—Complainant dies during pendency of—Dismissal of complaint—Adjournment for son to come on record—Legality of.

Where the complainant in a summons case dies during the pendency of the case, the Magistrate should, under section 247 of the Code of Criminal Procedure, dismiss the complaint; it would be illegal for the Magistrate under the circumstances to grant an adjournment to enable the deceased complainant's son to come on the record and to proceed further with the enquiry.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of the Joint Magistrate of Parvatipur Division in Criminal Appeal No. 2 of 1927 preferred against the judgment of the Court of the Taluk Magistrate of Bobbili in Calendar Case No. 40 of 1926.

K. Kameswara Rao for petitioner.

Public Prosecutor for the Crown.

* Criminal Revision Case No. 527 of 1927.