

NAMBURUMAL  
CHETTI  
v.  
NAINIAPPA  
MUDALI,  
CARGENVEN  
J.

We have been referred to one case, *Bhuban Chandra Pradhan v. Emperor*(1), where the objection was raised that the learned Judge who made the complaint had not recorded a finding that it was expedient in the interests of justice to complain, and this was disposed of with the observation that

“the learned Judge’s order shows that in his opinion the appellant had given false evidence before him. That order by itself and in view of the proceedings started under section 476 carries the implication that the learned Judge must have felt that the ends of justice required that an inquiry before a Magistrate should take place.”

We think that the same implication is clearly to be gathered from the order which the learned Judge has passed in this case; and we can find no grounds for interfering with it in appeal. The appeal is accordingly dismissed.

B.C.S.

---

## APPELLATE CRIMINAL.

*Before Mr. Justice Krishnan Pandalai.*

1930,  
July 1928.

IN RE APPASAWMY MUDALI (FIRST ACCUSED), PETITIONER.\*

*Code of Criminal Procedure, 1898, Ss. 110 (f) and 117—Proceedings against several persons under sec. 110 (f)—Joint enquiry under sec. 117—Legality of.*

Where proceedings are taken against several persons under section 110 (f) of the Code of Criminal Procedure, a joint enquiry under section 117 of the Code is legal, provided the evidence of reputation admitted is not against each accused separately but against them all together.

*In re Kutti Goundan* (1924) 47 M.L.J. 689, *Hari Telang v. Queen-Empress* (1900) I.L.R. 27 Calc. 781 and *Emperor v. Angnu Singh* (1922) I.L.R. 45 All. 109, referred to.

---

(1) (1927) I.L.R. 55 Calc. 279.

\* Criminal Revision Case No. 472 of 1930.

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 Session of the South Arcot Division in Criminal Appeal No. 3 of 1930 preferred against the order of the Court of the Subdivisional Magistrate of Chidambaram in Miscellaneous Case No. 17 of 1929.

The case came on for admission.

*P. Viswanatha Ayyar* for petitioner.

### JUDGMENT.

It is urged that the joint trial of the petitioner with two other persons, who did not appeal to the Sessions Judge and have not applied to this Court, was illegal.

The allegation against them was that all the three of them were together associates in a course of criminal conduct such as to bring them under clauses (a), (d), (e) and (f) of section 110, Criminal Procedure Code. In such cases section 117 (5) clearly gave the magistrate, if he thought it just, the power to deal with all the accused in the same enquiry. But it is said that joint enquiries under section 117 are not legal where part of the enquiry is under clause (f) of section 110, and for this the decision *In re Kutti Goundan*(1), which itself cites *Hari Telang v. Queen-Empress*(2), is relied upon. There is a sentence in the latter decision which is incorporated into the former to the effect that there can be no connection between them (the accused) in regard to their characters so as to make them dangerous persons. But this was not the ground of decision in those cases, which were decided on the ground that, where several accused are being jointly tried under section 110, evidence of misdeeds against each of them singly should

---

(1) (1924) 47 M.L.J. 689.

(2) (1900) I.L.B. 27 Cal. 781.

APPASAWMY  
MUDALI,  
*In re.*

not be admitted against the others, as this will naturally prejudice these others. And WALSH J. makes this clear in *Emperor v. Annu Singh*(1). More than this I think none of the cases cited before me go, and I find myself unable to agree to the general proposition that, where proceedings are taken under section 110 (f), several persons should not be dealt with together. The evidence of reputation admitted against them should, of course, not be against each accused separately but against them all together.

In this case, as the judgment of the learned Sessions Judge shows, the evidence was clear that the petitioner along with the other two men were pursuing a course of extortion and terrorising for which they were all equally responsible and on which they had jointly earned the evil reputation to which several respectable witnesses spoke.

I can see no error or irregularity in the trial. The petition is dismissed.

B.C.S.

---

(1) (1922) I.L.R. 45 All. 109, 111.

---