

APPELLATE CRIMINAL.

*Before Mr. Justice Curgenvven and Mr. Justice Cornish.*1934,
September 18.KATIKINENI VENKATA GOPALA NARASIMHA
RAMA RAO (ACCUSED), PETITIONER,

v.

CHITLURI VENKATARAMAYYA (COMPLAINANT),
RESPONDENT.**Criminal Procedure Code (Act V of 1898), Ch. XVIII—Preliminary enquiry under—Question of admissibility of evidence admitted in—High Court—Interference in revision by, pending such enquiry.*

Where a case is in the stage of a preliminary enquiry, and, if committed, would eventually be heard by the Sessions Court, it is very unusual for the High Court to entertain a revision petition raising the question of the admissibility of certain evidence admitted by the Magistrate in the preliminary enquiry. The fact that the revision petition has been admitted is no bar to its being thrown out when it comes on for final hearing.

Ponnusami Chetty, In re. (1933) I.L.R. 56 Mad. 475, distinguished.

PETITIONS under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the orders of the Court of the Subdivisional Magistrate of Kovvur, dated 12th August 1934 on petitions, dated 5th August 1934 and 26th July 1934 respectively in Preliminary Register No. 1 of 1934.

S. Srinivasa Ayyangar for *K. S. Jayarama Ayyar* and *B. T. M. Raghavachari* for petitioner in both cases.

Advocate-General (Sir A. Krishnaswami Ayyar) for *V. Suryanarayana* for respondent.

* Criminal Revision Cases Nos. 647 and 648 of 1934 (Criminal Revision Petitions Nos. 601 and 602 of 1934).

K. Venkataraghavachari for *Public Prosecutor*
(*L. H. Bewes*) for the Crown.

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CURGENVEN J.—The ORDER of the Court was delivered by CURGENVEN J.—The question which these criminal revision petitions raise is as to the admissibility of certain statements made by the complainant in an income-tax return. The case is in the stage of a preliminary enquiry, and, if committed, will eventually be heard by the Sessions Court. In these circumstances it has been urged upon us by the complainant that we should not interfere with the order of the learned Subdivisional Magistrate admitting the evidence. We believe it to be very unusual for this Court to hold up a preliminary enquiry while it adjudicates upon an order of this kind. Indeed, only one reported case, a recent one decided by BURN J., *Ponnusami Chetty, In re* (1), has been brought to our notice in which a question of the admissibility of evidence at this stage has been entertained; and it does not appear that any objection, such as is raised now, was preferred. We are influenced by the consideration that, if the case is committed for trial, it will rest upon the trial Court independently to decide upon the admissibility of this evidence, and it seems undesirable that, by a decision at this stage, we should in any way interfere with that Court's discretion. If the case is not committed, our intervention will have been unnecessary. Mr. S. Srinivasa Ayyangar objects that this petition has passed the admission stage, when it was open to the Court to throw it out on these

(1) (1933) I.L.R. 56 Mad. 475.

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grounds. We do not think that our hands are thereby tied, as on the previous hearing there was no occasion for the objection to be raised.

For these reasons we decline at this stage to interfere with the decision to admit the evidence, and dismiss the petitions.

K.W.R.
