

he was debarred by the impugned directions from applying this mind to the case and giving his own decision thereon, the legal right of the petitioners was infringed. If a petitioner has direct individual personal interest in a certain matter which is being affected prejudicially by a quasi-judicial order in a proceeding to which he is a party, it cannot be said that he has no right to invoke the extraordinary jurisdiction of a High Court under article 226 of the Constitution merely because no law confers on such a person the absolute right to claim the very relief for which he had applied and which has been denied to him. Each case would depend upon its own facts and it does not appear to be unsafe to hold that if a quasi-judicial order is passed on extraneous considerations or in pursuance of an unauthorised direction by a superior authority, the person affected thereby is entitled to pray for the order to be quashed by a writ in the nature of certiorari irrespective of whether he has or has not a right to obtain the precise relief which has been denied to him by the impugned order. We would, therefore, hold that there is no merit in this technical objection raised by the Advocate-General.

No other point was argued before us. The petitioners appear to have been treated rather shabbily and are, therefore, entitled to get their costs of the proceedings in this Court from the respondents.

We, therefore, allow this petition with costs and set aside the impugned directions and orders (Annexure 'C' and 'D') and direct the respondents to deal with and dispose of the application of the petitioners for allotment of land to them in the district of Gurgaon in accordance with law.

D. K. MAHAJAN, J.—I agree.

B. R. T.

REVISIONAL CRIMINAL

Before Shamsher Bahadur, J.

STATE,—*Petitioner*

versus

Jagrup Singh AND ANOTHER,—*Respondents*

Reported Criminal Revision No. 186-R of 1965.

April 12, 1967.

Code of Criminal Procedure (Act V of 1898)—S. 347—Order of commitment—Whether should contain reasons.

State *v.* Jagrup Singh, etc. (Shamsher Bahadur, J.)

Held, that in case triable both by the court of Sessions and the Magistrate, 1st Class, the Magistrate has to record an order under the provisions of section 347 of the Code of Criminal Procedure for committing the case to the Court of Session. No reason are required to be given for doing so, as they may be gathered or implied from the facts of the case. Even if eventually the prosecution ends in a lesser sentence, it is no ground to say that the Magistrate himself could have tried the case. The failure to record reasons does not invalidate the commitment order.

Case reported under section 438 of the Criminal Procedure Code by Shri C. S. Tiwana, Additional Sessions Judge, Sangrur, on 11th October, 1965, for revision of the order of Shri J. B. Garg, Magistrate, 1st Class, Sunam, dated 4th August, 1965.

I. B. BHANDARI, ADVOCATE, for the Petitioner.

NEMO, for the Respondents.

JUDGEMENT

SHAMSHER BAHADUR, J.—Jagrup, Deva and Shera were committed to the Court of Session for trial under section 392, Indian Penal Code by the Court of Judicial Magistrate, 1st Class, Sunam, on 4th August 1965.

According to the prosecution, one Ram Nath was returning from Lehra Mandi for going to his village Ghoranab. He had with him a gold Kantha placed in a bag. Jagrup and Deva engaged Ram Nath in conversation and were later joined by the third accused Shera. While Ram Nath had gone to drink water, Jagrup picked up the bag and when Ram Nath asked him to return it, he was inflicted injuries by the accused persons. Holding that there was a *prima facie* case of robbery against the three accused persons, the Committing Magistrate made an order for its trial by the Court of Session, Sangrur.

The offence under section 392, Indian Penal Code, is triable both by the Court of Session and the Magistrate, 1st Class. In case where the jurisdiction is concurrent, the Magistrate has to record an order under the provisions of section 347 of the Code of Criminal Procedure for committing the case to the Court of Session. No reasons have been adduced and the learned Additional Sessions Judge, Sangrur, in his order of 11th October, 1965; has recommended that the commitment order should be set aside on this score.

Under sub-section (1) of section 347 of the Code of Criminal Procedure:—

“If in any inquiry before a Magistrate it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial he shall commit the accused under the provisions hereinbefore contained.”

In an Allahabad case, Desai, J., in *K.S.V.R. Nigam v. State* (1); made the following observation at page 7:—

“The offences are undoubtedly serious. One of section 409 being punishable with transportation for life or imprisonment for ten years and the other being punishable with imprisonment for three years. I consider that the mere failure to give reasons for the commitment in the order is not a ground for quashing the commitment under section 215, if a valid reason for the commitment can be gathered or implied from the facts of the case.”

Now, the present case is one of robbery and under section 392, Indian Penal Code, the punishment for the offence extends up to fourteen years. If eventually, the prosecution ends in a lesser sentence, it is no ground to say that the Magistrate himself could have tried the case. The Sessions Judge, in my opinion, is clearly in error in thinking that the failure to record reasons invalidates the commitment order. As expressly stated by Desai, J. in *Nigam's* case, the reasons may be gathered or implied from the facts of the case. Theft was accompanied by the use of force and I think the gravity of the offence is a sufficient reason by itself to uphold the validity of a commitment order. It may be observed in passing that the point was taken up by the learned Sessions Judge *suo motu*.

In this view of the matter, I am not inclined to accept the recommendation and would send back the case to the learned Sessions Judge to proceed with the trial of the case in accordance with law.

R. N. M.