

Court while dealing with the competence of the Magistrate to discharge an accused, in a case like the instant one at hand, held :

“....it is not open to the committal Court to launch on a process of satisfying itself that a prima facie case has been made out on the merits. The jurisdiction once vested in him under the earlier Code but has been eliminated now under the present Code. Therefore, to hold that he can go into the merits even for a prima facie satisfaction is to frustrate the Parliament’s purpose in re-moulding Section 207-A (old Code) into its present non-discretionary shape. Expedition was intended by this change and this will be defeated successfully if interpretatively we hold that a dress rehearsal of a trial before the Magistrate is in order. In our view, the narrow inspection hole through which the committing Magistrate has to look at the case limits him merely to ascertain whether the case, as disclosed by the police report, appears to the Magistrate to show an offence triable solely by the Court of Session. Assuming the facts to be correct as stated in the police report,the Magistrate has simply to commit for trial before the Court of Session. If, by error, a wrong section of the Penal Code is quoted, he may look into that aspect.

If made-up facts unsupported by any material are reported by the police and a sessions offence is made to appear, it is perfectly open to the Sessions Court under Section 227 CrPC to discharge the accused. This provision takes care of the alleged grievance of the accused.”

Sanjay Gandhi v. Union of India, AIR 1978 SC 514

When an offence is cognizable by the Sessions court, the Magistrate cannot probe into the matter and discharge the accused. It is not permissible for him to do so, even after considering the evidence on record, as he has no jurisdiction to probe or look into the matter at all. His concern should be to see what provisions of the Penal statute have been mentioned and in case an offence triable by the Sessions Court has been mentioned, he must commit the case to the Sessions Court and do nothing else.

Thus, we are of the considered opinion that the Magistrate had no business to discharge the appellant.

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