

It was also faintly contended that there was no evidence to show that he had actually died. The father of the deceased gave evidence that the dead body of his son was cremated by him and in this he was supported by other witnesses. There is no force in this point. Upon the whole, we are satisfied that the appellant has not been able to substantiate his contention that he did not have a fair trial.

The next contention advanced⁸⁰ by the appellant's learned counsel is that there was a misjoinder of charges. The charges of murder and attempt to murder could be joined and tried together. The charges of extortion and wrongful confinement were distinct offences and appellant should have been charged and tried separately as required by the mandatory provisions of Section 233 of the Code. The first offences took place in the night whereas act of extortion took place next morning. Learned counsel contends that there is disobedience¹⁶⁰ to an express provision as to the mode of trial contained. The trial is wholly vitiated and accused is not bound to show that the misjoinder has caused any prejudice to him. Accused was charged with 41 acts extending over a period of two years. It permitted trial only for three offences of the same kind if committed within a period of 12 months. That was a case of conviction on a charge of abetment of forgery. In this, the²⁴⁰ depositions of some witnesses were not read over to the witnesses but were handed over to them to read themselves. As no failure of justice had been occasioned, the trial was not vitiated.

There is no doubt that the object of Section 233 is to save the accused from being embarrassed in his defence but the Legislature has engrafted certain exceptions. Having regard to the facts and the circumstances of the case, we are of opinion that the present case³²⁰ falls under Section 235. It provides that

if more than one offences are committed by the same person in one series of transaction then he may be charged with and tried at one trial for every such offence. The prosecution story clearly shows that the offence of extortion committed on the 14th September and was one of a series of acts connected with the offence of murder and attempt to murder committed on the previous day. The prosecution case was⁴⁰⁰ that when the appellant accompanied by this party, he caught hold of two persons. He took them into custody without any rhyme or reason. The deceased fell down while the others ran away. He pursued them and brought two of them back to the spot where the deceased was lying but he was alive. He shot him in the chest and killed him. Then, he proceeded to the village itself where he stayed for the night. He released other two persons on the intercession of certain persons.⁴⁸⁷

STENORJ

TEACHES A DIFFERENT ART

