

Cr.P.C.⁴⁰ If both the offences from part of the same transaction, die trial can be held at the same time under the provision of Ss. 233 to 239 Cr.P.C.⁴¹ Where the accused is found to have been prejudiced due to joint trial or on the basis of joint charges, the judgment cannot be maintained due to such illegality.⁴²

13. JOINT TRIAL

In every civilized State of world people charged of similar offence during same transaction or transactions are to be jointly tried—Such rule of law, practice, and procedure is derived from principles of equality, wisdom behind such principle is that those who are co-accused in same transaction and tried for same offence or cognate offences, as the case may be, should be in a position to defend themselves equally against same narration of facts as well as charges— Another reasons is that if one accused shifts his burden to other one, the other should be, in a position to defend himself and rebut allegations there and then.⁴³

Sections 234, 235, 236, 239 can individually be relied upon as justifying a joinder of charges in matter of trials, but use cannot be made of two or more of these four sections together to justify a joinder. It is, therefore, not possible to combine the provisions of two or more sections, or the different sub-clauses of Section 239 in any one case or to justify a trial of several persons partly by applying the provisions of one clause and partly by "applying the provisions of another clause or other clauses, and a joint trial is permissible only if it is permitted by any one of these sections."⁴⁴

Section 234, Cr.P.C. is merely an enabling section and does not in any way deprive the Court of ordering a separate trial. It is not obligatory on the Court to have joint trial of more than one offences committed within a period of 12 months.⁴⁵ if prosecution decides to split the charges and try each of them separately the accused cannot insist of joiner of charges.⁴⁶

The intent of S. 234 is to hold a joint trial for three separate offences only when they essentially were of same kind and committed within one year by the

40. 1988 MLD 1477.

41. 2001 Cr.L.J 250.

42. 2003 PCr L.J 252.

43. 2009 PLD(e) SC 866.

44. PLD 1964 Lah. 339.

45. PLD 1964 Lah. 339.

46. PLD 1985 Posh. 65: 1973 PCr.LJ 457