

PRACTICE DIRECTION No.1/91

Recently, when several persons have been charged with different offences arising out of the same incident (for example a gang fight or a series of sexual offences against the same girl) some of those persons have been dealt with in the Magistrates' Court and others have been committed to the Supreme Court for trial.

10 This practice creates considerable difficulties for the Supreme Court. If the charge in the Magistrates' Court was contested, the same or very similar evidence has to be repeated in the Supreme Court which may come to a different conclusion to that of the magistrate. Even if the accused pleaded guilty in the Magistrates' Court, the Supreme Court is hampered in the sentence which can be given to a co-offender because the sentences must be related to each other. The sentence imposed in the Magistrates' Court sets the standard, and if it is inadequate, the Supreme Court will not be able to pass an adequate sentence on a co-offender.

20 In future, where two or more persons are charged with offences arising out of the same incident, all accused must be tried in the same court, if possible jointly or consecutively. If any one such accused is committed to the Supreme Court, all persons involved must be committed to the Supreme Court for trial or sentence, as the case may be.

A similar situation arises when one person is charged with different offences arising out of the same incident (for example rape and indecent assault). In some cases the less serious offence has been dealt with in the Magistrates' Court, and the more serious charge sent to the Supreme Court for trial. If this is done the more serious charge cannot be heard at all, because a person cannot be tried twice on the same facts.

30 Where a person faces two or more charges arising out of the same incident, all those charges must be dealt with in the same court. If he is committed to the Supreme Court on one charge, the minor charges must not be dealt with in the Magistrates' Court.

Date 27th March 1991

G.W. Martin
Chief Justice
R.M. Webster
Justice