

R. v. SMITH AND KITCHEN.

CRIMINAL REVIEW CASE NO. 54 OF 1940.

Non-corporate body cannot be charged—individual concerned must be charged and not the firm.

A non-corporate body cannot be charged with an offence but the individual member of the firm can be so charged.

As to the criminal liability of Corporations see *Archbold, Criminal Pleading Evidence and Practice*, 34th Edition, para. 23.

Law, C.J.: Mr. Burton, Manager of Messrs. Smith and Kitchen, pleaded guilty (by letter) to the charge. That firm is not proved to be a *Corporate Body*, consequently it has no legal entity and cannot be fined. In such cases, the individuals themselves should be prosecuted according to the facts. In this particular case it would appear that Mr. Burton took the responsibility for the offence. In the circumstances, therefore, it was not competent for the Magistrate to accept a plea of guilty. Accordingly, the conviction is quashed and the fine should be refunded. No order will be made for the retrial of the case against any particular individual or individuals. The authorities concerned, however, are free to institute fresh proceedings, should they so desire.