

Emperor Vs. Mul Chand

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Court : Allahabad

Decided On : Sep-07-1914

Reported in : (1915)ILR37All30

Judge : Piggott, J.

Appellant : Emperor

Respondent : Mul Chand

Judgement :

Piggott, J.

1. The order in this case requiring the applicant Mul Chand to furnish security to keep the peace was passed without any ' inquiry as to the truth of the information upon which action had been taken,' within the meaning of Section 117 of the Code of Criminal Procedure. The Magistrate referred to the result of a case tried by him in which certain persons were put on their trial on charges under Sections 147 and 325 of the Indian Penal Code, as justifying the order passed by him in the present case against Mul Chand. I do not know whether Mul Chand was or was not an accused person in the riot case above referred to and if he was or was not convicted in that case. However this may be, though the proceeding in the riot case might justify an order under Section 106 of the Code of Criminal Procedure against any person who may have been convicted at that trial, it had nothing to do with the proceeding now before me. The law required the Magistrate to hold an

inquiry, and even though this requirement would have been substantially complied with by an inquiry such as is prescribed in chapter XX of the Code of Criminal Procedure for the trial of summons cases, still I am unable to find on the record before me anything that shows that an inquiry was held at all. Mul Chand was apparently asked what cause he had to show why he should not be bound over to keep the peace, and in so far the procedure observed was correct and in accordance with the provisions of Section 117, Clause 2, read with Section 242 of the Code of Criminal Procedure. Inasmuch, however, as Mul Chand did not admit that he was a person likely to commit a breach of the peace, or was otherwise a proper subject for a proceeding under Section 107 of the Code, the Magistrate was too hasty in binding him over without further inquiry, on the strength of his own statement. I must set aside the order complained of and I do so accordingly. If security has been furnished by Mul Chand in accordance with the order, the security bonds in question are hereby discharged.

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