

In Re: Gudar Singh

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1897)ILR19All291

Judge : John Edge, Kt., C.J.

Appellant : In Re: Gudar Singh

Judgement :

John Edge, Kt., C.J.

1. Magistrate of the first class having taken proceedings under Section 110 of the Code of Criminal Procedure against Gudar Singh and others, is said, in the course of those proceedings and before evidence had been taken, to have stated in Court that unless Gudar Singh admitted his guilt and furnished the necessary security, he would be dealt with severely and would be sent to jail. I have taken that statement from the third paragraph of an affidavit which was sworn by Gudar Singh, and which has been filed in support of an application to transfer the case to some other Magistrate. No explanation has been offered, and no denial made that such words were used, on the part of the Magistrate concerned. Under these circumstances, there having been an opportunity for the making of an explanation or a denial, I am forced to conclude that the Magistrate concerned did threaten Gudar Singh that he would be dealt with severely and sent to jail if he did not admit his guilt and furnish security. No man charged with any criminal offence or quasi-criminal offence is bound or is under any obligation to make any admission

injurious to his own interests. It is needless to say that no judicial officer should attempt to compel any accused person to make any admission detrimental to his interests. As a matter of fact the procedure invariably in England is to inform the accused that he may make a statement, but that any statement he may make may be given in evidence against him. Having regard to Section 117 of the Code of Criminal Procedure, and to the fact that the Magistrate concerned has acted within the meaning of that section, it appears to me that I have got no power to make an order of transfer, and that also is the opinion of other Judges of this Court whom I have consulted in the matter. What I have power to do is to quash the proceedings, so far as Gudar Singh is concerned, and I accordingly make an order quashing the proceedings in question so far as Gudar Singh is concerned. This order will not prevent fresh proceedings being taken against Gudar Singh by any Magistrate other than the Magistrate referred to in the affidavit of Gudar Singh.

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