

**Emperor Vs. Sumer Singh**

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**SooperKanoon Citation :** [sooperkanoon.com/450704](http://sooperkanoon.com/450704)

**Court :** Allahabad

**Decided On :** Jun-25-1947

**Reported in :** AIR1948All78

**Appellant :** Emperor

**Respondent :** Sumer Singh

**Judgement :**

ORDER

**Malik, J.**

1. This application under Section 491, Criminal P.C. was moved before me on 29-5-1947. The allegation made in the affidavit was that the applicant had not been supplied with the grounds for his arrest as was necessary under Section 5, U.P. Maintenance of Public Order (Temporary) Act (4 [iv] of 1947). The matter came up before me on 13-6-1947 and the Deputy Government Advocate was not then in a position to supply the information required. I therefore, gave him ten days' time and directed that the nature of the information given and the date on which the information was supplied and proof thereof should be placed before me within ten days. Today, Mr. Bhatt on behalf of the Deputy Government Advocate has produced the notice that was served on Sumer Singh on or about 1-4-1947. I find that the District Magistrate has got a form typed which probably is handed over to each accused with the object of com-plying with the provisions of Section 6 of the

Act. The carbon copy of the form reads as follows:

You Sumer Singh, son of Makund Singh, Thana Sisamau have been arrested and detained on the following grounds:

That you during the last few days have been responsible for the communal disturbances in Cawnpore City, and for attempting to bring law and order into contempt and in (?) introduce conditions in which breaches of peace cannot be avoided.

You are hereby informed that you can under the law make a representation to the District Magistrate Cawnpore at any time while the order of detention is in force.

2. The object behind the section was that if the person arrested is supplied with the information giving the cause for his arrest, he may be able to satisfy the district authorities that the information received by them, against him, was incorrect and he should be released. The section was introduced for the protection of the public. The form introduced by the District Magistrate is in such general terms that it supplies no information whatsoever and all that the accused can do is that he can just say that he was not responsible. Neither the question nor the answer are likely to be of any assistance either to him or to the district authorities. The law contemplates that the District Magistrate should apply his mind to the case and analyse the nature of the information received by him and give notice of that to the-accused so that he may be able to submit an explanation. The form now introduced - I do not know who is responsible for it - defeats the object of the section and I consider that the District Magistrate would be well advised to discard this form and in future to apply his mind to individual cases.

3. I, therefore, direct that information as required by Section 5 of the Act shall be given to the applicant within seven days from today. Mr. Pandey has urged that as the provisions of Section 5 have not been complied with, his client must be released, but in these days of communal disturbances it may not be safe to release persons who may be responsible for public disorders. It is true that the letter and the spirit of the section were not complied with but then that may be because the District Magistrate was wrongly advised and this form, it was thought,

would satisfy the requirements of the section, without the authorities having to take the trouble to scrutinise individual cases. If the necessary information is not given within seven days, Mr. Pandey can move this Court again for orders.

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