

Ram Prasad Vs. Emperor

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Court : Allahabad

Decided On : Sep-29-1921

Reported in : AIR1921All246(1); 65Ind.Cas.554

Judge : Lindsay, J.

Appellant : Ram Prasad

Respondent : Emperor

Judgement :

Lindsay, J.

1. This is an application by one Ram Prasad against whom an order has been made by the District Magistrate of Muzaffarnagar on the 2nd of September 1921. A certified copy of this order is before me and, so far as it relates to Ram Prasad, runs as follows: 'Read report of S.O. Khatoli: Ram Prasad is shown to be an undesirable man. He will leave Khatoli at once or be prosecuted as a bad character.'

2. According to the instructions supplied to the learned Government Pleader the District Magistrate seems to take up the attitude that Ram Prasad cannot question this order and that, in any case, his application is premature inasmuch as no proceedings have been taken yet against him as being a bad character.

3. The order of the Magistrate directing Ram Prasad to leave the town of Khatoli under threats of being prosecuted as a bad character is wholly indefensible, and one which he had no jurisdiction to make. If he believes that Ram Prasad is a person who is liable to be dealt with as a bad character he can take against him such proceedings as are warranted by the provisions of the Criminal Procedure Code. He has, so far as I am aware, no authority to order a man to leave any place under threats of being prosecuted as a bad character. The attention of the learned District Magistrate may profitably be drawn to the case which is reported in the Allahabad, Weekly Notes, 1897, at p. 59 [Muhammad Bakar Ali v. Hanwant Singh A.W.N. (1897) 59. In the judgment which was delivered by a Bench of this Court the learned Magistrate will find some observations which are pertinent to the matter in hand and which deal with the claim of Magistrates to issue executive orders for which they can produce no statutory authority.

4. I set aside the order of the learned District Magistrate accordingly as being illegal and ultra vires.

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