

Emperor Vs. Bahadur Singh

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SooperKanoon Citation : sooperkanoon.com/464156

Court : Allahabad

Decided On : Sep-03-1931

Reported in : AIR1932All58; 136Ind.Cas.373

Appellant : Emperor

Respondent : Bahadur Singh

Judgement :

Sulaiman, J.

1. This is a reference by the District Magistrate of Dehra Dun recommending that proceedings may be ordered against the sureties for the accused. He was proceeded against under Section 109, Criminal P.C. Two persons stood sureties for him for his good behaviour. Shortly before the expiry of the period, he was again found concealing himself under suspicious circumstances in a lonely and abandoned water-mill without any ostensible means of livelihood and unable to give a satisfactory account of himself. He was accordingly sent up again under Section 109, Criminal P.C. The Magistrate was not able to take any action against the sureties before the expiry of the period. He expressed the opinion that he was unable to take any action against the sureties. The District Magistrate considers that there was no objection to the proceedings being taken against the sureties even though there was some delay.

2. So far as this last matter is concerned, we agree with the District Magistrate that if the bond was forfeited on account of any act of the accused person within the period for which the sureties had bound themselves, they would be liable whether the proceedings were started against them before or after the expiry of the period.

3. We however think that in view of the provisions contained in Section 121, Criminal P.C. there has been no forfeiture. A breach of the bond is committed when the accused commits or attempts to commit or abets any offence punishable with imprisonment. The mere fact that he is again found in suspicious circumstances without any means of livelihood or is unable to give a satisfactory explanation of himself, which may justify a fresh proceedings against him under Section 109, Criminal P.C. would not result in the forfeiture of the first bond because that does not amount to the commission of or attempt to commit or abetment of an offence punishable with imprisonment. At most it might be a preparation for the commission of an offence, but short of an attempt. We accordingly direct; that the record may be returned.