

In Re: Nand Prasad and ors.

In Re: Nand Prasad and ors.

SooperKanoon Citation : sooperkanoon.com/466645

Court : Allahabad

Decided On : Feb-22-1909

Reported in : 1Ind.Cas.211

Judge : Aikman, J.

Appellant : In Re: Nand Prasad and ors.

Judgement :

Aikman, J.

1. This is an application for the revision of an order of a Magistrate of the first Class directing the applicants to give each a personal bond in the sum of Rs. 100 to keep the peace for one year. An examination of the record shows that the Magistrate has not complied with the procedure prescribed in Chapter VIII of the Code of Criminal Procedure. The summonses issued to the applicants were not accompanied by a copy of the order made under Section 112 as is required by Section 115 of the Code. Had the summonses to the applicants contained the substance of the information upon which the Magistrate acted, I might have overlooked this defect, but the summonses too are not in accord with the form set out in Schedule V No. 12 of the Code. I am unable to say that the applicants have not been prejudiced by the neglect of the Magistrate to comply with the provisions of the law. I, therefore, allow the application and set aside the order of the Magistrate, dated the 10th of October 1908. If the Magistrate deems it necessary

to take further proceedings against the applicants, he must take care to comply strictly with the provisions of the law. The Magistrate has written a very hesitating judgment; if he deems it necessary to take farther proceedings and bind over the applicants to keep the peace he should state clearly in his judgment whether or not he finds on the evidence that the applicants are likely to commit a breach of the peace.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com