

Emperor Vs. Munna

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Court : Allahabad

Decided On : Aug-15-1916

Reported in : AIR1917All441; (1917)ILR39All139; 35Ind.Cas.822

Judge : Walsh, J.

Appellant : Emperor

Respondent : Munna

Judgement :

Walsh, J.

1. This case is a revision on the application of, the Government Advocate. I think the learned Sessions Judge has come to an erroneous conclusion, founding himself upon a decision of this Court under Section 107 which does not apply and upon a decision of the Calcutta High Court reported as *Ketaboi v. Queen-Empress* 27 C. 993. The latter decision, which is certainly in point, has been dissented from by the Bombay High Court and also by the Madras High Court in a decision reported as *In re Kora Rangan* 17 Ind. Cas. 413 : 36 M. 96 : 23 M.L.J. 535 : 13 Cr. L.J. 781, which I adopt. Incases of this kind arguments ab inconvenienti can always be produced on either side. On the one hand, it may be said that a man accused of an evil reputation outside his residence might be subjected to a great inconvenience in having to summon witnesses from a distance. It may be that that is one of the risks that travellers run in this country, but if they are persons of good

character it does not strike me as a very serious one. On the other hand, it is obvious that a notorious thief who had made the continent too hot for himself might remain at liberty enjoying a notorious reputation as a thief and in his defence set up residence in France. The safer course is to look at the Statute. The section is perfectly plain. The Magistrate is given power to deal with persons who have a general reputation as bad characters, who happen to be within his jurisdiction. Nothing is said and no language is used in the section bearing upon the question of residence at all. The case will have to go back to the Sessions Judge to confirm the order of the Magistrate or to deal with it as he thinks fit according to law. I may say that although the Government Advocate was not present I had the assistance of the Government Pleader.

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