

Ram Dial and ors. Vs. Emperor

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Court : Allahabad

Decided On : Feb-21-1912

Reported in : 14Ind.Cas.607

Judge : George Knox, J.

Appellant : Ram Dial and ors.

Respondent : Emperor

Judgement :

George Knox, J.

1. The learned Sessions Judge, acting under Section 437 of the Code of Criminal Procedure, says that he has gone through the record and that in his opinion the evidence for the prosecution made out a prima facie case against the accused. He accordingly ordered a further inquiry to be made and ordered the further inquiry to be made by the District Magistrate or some Subordinate Magistrate. It is not usual with this Court to interfere with interlocutory orders of this nature. The inquiry ordered is a further inquiry. I purposely abstain from making any pronouncement upon the case, but I wish to guard the Magistrate against a possible error which has already been pointed out in other cases by this Court, viz., that a further inquiry does not mean proceeding on the evidence already taken; that evidence or other evidence, if there be any, should be taken do novo by the Magistrate, who holds the further inquiry. It is unfortunate that the Magistrate, who tried the case,

should have left it at a stage which necessitated further inquiry. That inquiry should be immediately held and should be finished with as little delay as possible. If the accused furnish reasonable security, they should be admitted to bail pending the inquiry. The petition is rejected.

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