

Reoti Prasad Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/473601

Court : Allahabad

Decided On : Aug-31-1934

Reported in : AIR1934All1046; 153Ind.Cas.155

Appellant : Reoti Prasad

Respondent : Emperor

Judgement :

ORDER

Bajpai, J.

1. Reoti Prasad the applicant before me executed a bond presumably under Section 499, Criminal P.C., in the sum of Rs. 200 by which he covenanted to produce Sarju Prasad, an accused person when required by the Court. It appears that Sarju Prasad himself did not execute any bond. Reoti Prasad failed to produce the accused when asked. The Magistrate therefore took proceedings under Section 514, Criminal P.C., for the forfeiture of the bond, and the order that was passed, was to the effect that the entire amount of the bond, namely Rs. 200 be forfeited and in default Reoti Prasad was ordered to undergo three months' Section I. This order was affirmed on appeal by the learned District Magistrate. The learned Sessions Judge has however referred the matter to this Court with a recommendation that the order be quashed. He is of the opinion that as the accused Sarju Prasad himself did not execute a bond for his appearance, but the

applicant Reoti Prasad alone executed a bond as a surety, the bond was not under the provisions of Section 499, Criminal P.C., and the surety does not become amenable to the penalties contemplated by law in the event of his failure to produce the accused and it is said that as a condition precedent there should be a bond executed by the accused himself. I am however of the opinion that the two bonds contained different undertakings and are not co-related. The validity of the one does not depend on the validity of the other. I therefore disagree with the view of the learned Judge on this point.

2. At the same time I am of opinion that the entire amount of the bond should not be forfeited. The Court should have obtained a bond from the accused himself and that failure might have enabled the accused to get out of the hands of the surety. I would therefore reduce the amount to Rs. 50. I also quash the order of the learned Magistrate that the accused should be imprisoned in default of payment of the amount. As pointed out by the learned Judge the Court should in the first instance proceed to recover the amount by issuing a warrant for the attachment and sale of the moveable property belonging to Reoti Prasad and when this has proved infructuous an order at a subsequent stage might be passed for the imprisonment of the applicant Reoti Prasad in the Civil Court jail. Let the record be returned.