

Emperor Vs. Sundar

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Court : Allahabad

Decided On : Dec-09-1932

Reported in : 146Ind.Cas.831

Judge : Bennet, J.

Appellant : Emperor

Respondent : Sundar

Judgement :

Bennet, J.

1. This is a reference by the learned District Magistrate of Aligarh recommending that this Court should set aside an order of a Magistrate passed under Section 119, Criminal Procedure Code, discharging an accused person who had been ordered to show cause why security should not be taken from him under Section 109, Criminal Procedure Code. The law on the subject is laid down in Emperor v. Ram Lal : AIR1929 All273 , where a Bench of the court held that such a case could come before this Court on its revisional side, but that this Court would not go into the merits of the case unless there was something to show that there has been a material departure from the legal principles according to which the case ought to have been dealt with, or if it is asked to go into the facts it will only do so if something is shown which particularly indicates that it is desirable to enter into those facts. In the present case some prosecution witnesses told a story to the

effect that the accused was phased at night and that he hid behind a wall and that he had an instrument of burglary with him. The trying Magistrate did not believe those statements. The District Magistrate states that he does believe them. This is a mere conflict of opinion on the value of evidence and it is not a matter which comes within the principle laid down by the ruling quoted. It is not shown that there has been any departure from legal principles or that there is any special reason why this Court should enter into the facts. Accordingly I refuse this reference and direct that the papers be returned to the District Magistrate.

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