

Munshi Singh Vs. Emperor

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Court : Allahabad

Decided On : Feb-26-1920

Reported in : AIR1920All170(1); 55Ind.Cas.733

Judge : George Knox, J.

Appellant : Munshi Singh

Respondent : Emperor

Judgement :

George Knox, J.

1. This case has been properly reported to this Court. It appears that a person who had been ordered to produce a surety for good behaviour tendered one Durga Singh as surety. The Police were ordered to furnish a report in regard to Durga Singh's good or bad character and the Tahsildar of the locality to furnish a report as regards his status and position. Upon receiving these reports the Magistrate passed the following order: 'From the Police report it appears that this surety, Durga Singh, was challaned in a theft case. He is not a reliable man, under the circumstances his offer as surety cannot be accepted. The accused should produce surety of good character to the satisfaction of the Court.' This order cannot be accepted. It does not by any means follow that a person, who has once been challaned for a theft, is not a reliable person. It must be within the learned Magistrate's experience that it is not every person, who is challaned by the Police,

who is not a reliable man. Further when an accused person is called upon to produce a surety, such surety must be accepted or if rejected, he must be rejected upon tangible evidence recorded and considered by the Magistrate who ordered him to find security. See Emperor v. Balwant 27 A. 293 : 1 A.J. 601 : A.W.N. (1910) 231.

2. The order passed by the Deputy Magistrate is set aside. Should the person ordered to find security produce a surety about whom there is doubt, the Magistrate must decide upon evidence of some kind that he is not of good character before rejecting him. It is reversing the whole practice in calling upon the surety to prove that he is of good character.

3. Let the record be returned.

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