

Ram Kishan Vs. Emperor

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Court : Allahabad

Decided On : Sep-26-1917

Reported in : AIR1918All215; 42Ind.Cas.914

Judge : P. C. Banerji, J.

Appellant : Ram Kishan

Respondent : Emperor

Judgement :

P. C. Banerji, J.

1. Ram Kishan was called upon under Section 110 of the Code of Criminal Procedure to furnish security for good behaviour on the ground that he was a man of a dangerous and desperate character. The Officiating District Magistrate of Bareilly, who tried the case, made an order under Section 118 directing Ram Kishan to furnish security to be of good behaviour for two years. As the security was furnished, he did not submit the case to the Sessions Judge under Section 123 of the Code. The first plea taken in the application for revision to this Court is that the learned' Magistrate acted contrary to law in not complying with the provisions of Section 123, Sub-section (3), and not sending the record for the orders of the Sessions Judge. Having regard to the clear language of Section 123, which is to the effect that if a person who has been ordered to furnish security does not give such security the Court may direct him to be detained in prison

pending the orders of the Sessions Judge, the learned Counsel for the applicant did not press the plea. In the case of Rai Isri Pershad v. Queen-Empress 23 C. 621 at p, 627: 12 Ind. Dec. (N. S.) 418. it was observed that the section has reference to a case where default is made in furnishing the security required, and that if security is given, the section does not apply and no reference to the Court of Session is necessary. Security having been furnished in this case, it was not necessary to submit the case to the Sessions Judge. As the order in the present case was made by the Officiating District Magistrate, I have allowed the whole of the evidence to be laid before me by the learned Counsel for the applicant. In view of that evidence which shows that there are specific instances in which the accused had been maltreating people, trying to extort money and had been extorting money, it cannot be held that he has retrieved his character. He had already been convicted six times and it is not satisfactorily shown that since his last conviction in 1914 he has improved his character. On the contrary the evidence goes to prove that he is still pursuing his old habits. Under these circumstances I do not feel that I should be justified in interfering with the order of the Court below. I accordingly dismiss the application

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