

Emperor Vs. Phakkar

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Court : Allahabad

Decided On : Jan-04-1927

Reported in : 102Ind.Cas.342

Judge : Sulaiman, J.

Appellant : Emperor

Respondent : Phakkar

Judgement :

Sulaiman, J.

1. Phakkar had been ordered to execute a bond with two sureties for maintaining good behaviour under Section 110 of the Code of Criminal Procedure. This order was affirmed by the Sessions Judge, but the accused failed to comply with the said order. The Magistrate accordingly directed that he should be kept in prison to suffer rigorous imprisonment for two years including three months' solitary confinement unless and until he executed the bond and furnished the sureties asked for.

2. The order directing the accused to undergo solitary confinement is obviously without jurisdiction. The power to impose solitary confinement is conferred by Section 73 of the Indian Penal Code, but that section applies only where a person has been convicted of an offence under the Indian Penal Code and is not

applicable to convictions under other laws, unless expressly made so. The order passed against the accused was under the Code of Criminal Procedure which does not permit a solitary confinement.

3. I accordingly modify the order passed and direct that the words 'which will include three months' solitary confinement' be deleted from the order.

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