

Gudri Khatik Vs. Emperor

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Court : Allahabad

Decided On : Apr-13-1923

Reported in : AIR1923All595; 77Ind.Cas.886

Judge : Daniels, J.

Appellant : Gudri Khatik

Respondent : Emperor

Judgement :

Daniels, J.

1. The applicants in revision, Gudri, Markhande and Sahdeo Pandey; have been bound over under section Ho, Criminal Procedure Code, by a Magistrate of the First Class together with a fourth man Raja Bhar and their appeals have been dismissed by the District Magistrate. Twenty-nine witnesses in all were called for the prosecution including 1he headmen' of six different villages in the neighbourhood. The general effect of the evidence of these witnesses is that the accused are well known notorious thieves and belong to one gang. The only legal ground verged is that the Magistrate wrongly admitted statements as to the accused having been suspected in particular cases. This point is immaterial because even if this evidence is excluded the evidence of repute is sufficient to support the order. It is a curious circumstance that in a similar application in revision which proceeded this, one of the complaints of Counsel was that no

evidence had been given of the accused having been suspected in particular, cases. In this case the complaint is the other way. My own view regarding such evidence is that while it is clearly not cadence on the basis of which any poison could be bound over, yet when evidence of general repute has been given the fact that the accused have been suspected in a large number of cases may be admissible as corroboration. When thefts are committed and the perpetrators are not known the persons on whom suspicion naturally falls are those persons who have the reputation of being habitual thieves. Conversely the fact that the accused had never been suspected in any case might tend to weaken the evidence of general repute.

2. On the facts there is no ground for interference. As I have already said the evidence is amply sufficient to justify the order passed and it has been carefully considered both by the Trial Court and by the District Magistrate. Stress is laid on the fact that the accused called a large number of witnesses in their defence. This evidence has been considered by the Courts and they give reasons for not accepting it. Indeed the complaint of one of the Counsel who appeared in the case is that the District Magistrate has devoted too large a portion of his judgment to discussing the defense evidence. The statements as to good character made by the witnesses who appeared for Gudri and Sahdeo are certainly a good deal weakened by the fact that both these men had been bound over previously, Gudri under Section 109 and Sahdeo twice under section no, a fact which the witnesses for the most part suppress. Stress is also laid on behalf of Gudri and Markhande on the fact that only three witnesses in the case of the former and one in the case of the latter come from the actual village in which the accused reside. The Magistrate has given a reason for this. He is of opinion that witnesses were for the most part and to come forward on account of the fear inspired by the accused. However that may be, the three witnesses from Danlopur who have deposed against Gudri are very substantial witnesses consisting, as they do, of the headman of the village, the Chaudhri of the Bazar and a substantial money-lender. I find no reason to interfere in the case of any of the applicants and I accordingly dismiss the applications of all three.

