

Fateh Singh Vs. Sanwal Singh

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Court : Allahabad

Decided On : Dec-31-1969

Reported in : (1875)ILR1All751

Judge : Turner, Officiating C.J. and ;Pearson, J.

Appellant : Fateh Singh

Respondent : Sanwal Singh

Judgement :

Turner, Officiating C.J.

1. The appellant was required by the Magistrate to furnish two sureties for his good behaviour, each in the sum of Rs. 600. The respondent agreed to become a surety on condition that the appellant would deposit with him the sum in which he was required to go bail. The deposit was made, the period of suretyship expired without any act having been committed by the appellant to forfeit the security, and therefore the appellant applied to the respondent to repay the deposit. The respondent refused, denying the deposit. The appellant brought this suit to recover the deposit, but failed to establish to the satisfaction of the Court of First Instance that the deposit had been made. The lower Appellate Court found that the deposit of the sum of Rs. 600 with the respondent on the terms alleged was proved, but refused relief on the ground that the consideration of this agreement was unlawful in that it defeated the object of the law.

2. In special appeal the appellant challenges the propriety of this ruling.

3. In our judgment the conclusion at which the Judge has arrived is right. The Criminal Procedure Code, ch. xxxviii, empowers the Magistrate to require a person of notoriously bad livelihood to procure sureties who shall be responsible for his good conduct in the amounts required from them. If the amount for which a surety is responsible is deposited with him by, or on behalf of, the person for whose conduct he undertakes responsibility, it is obvious that he is responsible only in name. No Magistrate with a knowledge of the facts would be justified in accepting the surety under this chapter. The object of the law would be defeated. We must then affirm the decision of the Judge and dismiss the appeal, but seeing that the respondent denied the deposit, and that he was a party to the agreement, and that the point raised is novel, we order each party to bear his own costs in all Courts.

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