

Ramlal Vs. the State

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Court : Rajasthan

Decided On : Jun-29-1950

Reported in : AIR1951Raj116

Judge : Gupta, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 112, 117, 117(1) and 117(3)

Appeal No. : Criminal Ref. No. 119 of 1950

Appellant : Ramlal

Respondent : The State

Advocate for Def. : Sumerdan, Asst. Govt. Adv.

Advocate for Pet/Ap. : Party-in-person

Judgement :

ORDER

Gupta, J.

1. On 4-3-1950, the city police of Bikaner filed a complaint before the City Mag, First Class, Bikaner, that Ram Lal had distributed certain pamphlets directed against the Hon'ble Shri Raghuwar Dayal Goyal, Pood Minister, & that the said

pamphlets were spreading dissatisfaction in the public. It was further alleged in the complaint that on 3-3-1950, at about 1 O'clock, a report was made by one Vasudeo Prasad Vijayvargiya & Mohan Lal Head Constable, C. I. D., that Ram Lal & one Ganga Das had made an effigy of the Hon'ble Shri Raghuwar Dayal Goyal & were taking it round the city bazars with the help of four others & were shouting slogans which were likely to cause a breach of the peace & that they had, therefore, been arrested. The petnr Ram Lal, Seria, Narain, Goglla & Pemia were produced before the Ct & it was prayed that proceedings under Section 107, Cr. P. C. be taken against them. An appln for bail was made on behalf of Ram La & his associates. The learned Mag, without making any order as required by Section 112. Criminal P. C, ordered that pending; inquiry under sub-s 1 of Section 117, Cr. P. C. they be released on their execution of bonds in the amount of Rs. 5000/- each that they will maintain peace. It was on 7-3-1950, three days after the above order was made, that an order as required by Section 112, Criminal P. C. was passed by the Mag & the accused were called upon to show cause why each of them should not be required to execute personal bonds of the amount of Rs. 1000/- & to produce a surety each for the like amount for maintaining peace for one year. Thereupon, Ram Lal filed a revn petn before the Ses J., Bikaner, challenging the said order of 4-3-1950, passed by the city Mag, Binkaner. The order was attacked on legal grounds & it was urged that the order requiring personal bonds in the amount of Rs. 5000/- before an order under Section 112, Cr. P. O. had been passed was illegal. It was also urged that the said order was passed without any preliminary inquiry & was without jurisdiction. It was further urged that it was illegal on the part of the Mag to have required interim bond for an amount much larger than the amount he later on fixed in the order under Section 112, Cr. P. C. The learned Ses J. accepted the contentions on behalf of the petnr & recommended that the order of the Mag be set aside. The learned Asst Govt Advocate supports the reference & urges that he is unable to support the order passed by the Mag.

2. When the complaint for proceedings under Section 107, Cr. P. C. was filed, the accused were also put up before the Mag. If the Mag was satisfied that it was necessary to proceed against the accused under Section 107, Cr. P. C, & to require them to show cause why they should not be bound over to keep the peace,

he should have made an order in writing setting forth the substance of the complaint, the amount of the bond to be executed by them, the term for which it was to be in force & the number, character & class of sureties (if any) required. Vide Section 112, Cr. P. C. The Mag without passing the order as stated above passed an order, presumably under Section 117 (3), Cr. P. C, calling upon the accused to execute bonds for keeping peace until the conclusion of the inquiry. This was wholly wrong & absolutely unwarranted. He could not have passed such an order without previously passing an order under Section 112, Cr. P. C. The said order of the Mag is set aside & the reference is accepted.

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