

In Re: Ibraya Rowthan and anr.

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SooperKanoon Citation : sooperkanoon.com/788457

Court : Chennai

Decided On : Jul-20-1927

Reported in : (1927)53MLJ762

Appellant : In Re: Ibraya Rowthan and anr.

Judgement :

ORDER

Wallace, J.

1. The order of the lower court directing that petitioner should, in default of giving security, suffer simple imprisonment for one year, cannot be upheld on two grounds : (1) Section 123 contemplates that the accused shall be separately brought up for sentence if security is not furnished, that the Court should in its judgment fix a date for the furnishing of security, without any order for alternative imprisonment, and then if, by that date, accused has not furnished the security, he is to appear and receive sentence under Section 123; (2) it was wrong to fix a period of one year, since accused is entitled to be released from custody the moment he furnishes the security; the sentence ought to run 'for one year or until such date within that year as the required security be furnished.' As security appears to have been furnished in this case, no further action is called for. I do not, as at present advised, subscribe to the contention that a summary Court has no power to award, under Section 123, more than 3 months' imprisonment.

