

In Re: Thurman

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Court : Chennai

Decided On : Dec-06-1923

Reported in : 81Ind.Cas.908

Judge : Odgers and ;Wallace, JJ.

Appellant : In Re: Thurman

Judgement :

1. It is clear that no reasons have been given in the judgment of the Magistrates. This is contrary to Section 263 (h) of the Criminal Procedure Code. Honorary Magistrates are constantly being reminded of their obligations in this respect and we again call their attention to the requirements of the Code. No statement has been received from the Magistrates under Section 441, Criminal Procedure Code. Honorary-Magistrates as Presidency Magistrates are governed also by Section 370 (i) in cases where imprisonment is inflicted. The omission of reasons for the conviction is, no doubt, an irregularity. The only question is whether the irregularity has prejudiced the accused. In re Dervish Hussain 71 Ind. Cas. 212 : 46 M. 253 : 17 L.W. 18 : 4 M.L.J. 84; A.I.R. (1923) (M.) 185 : 32 M.L.T. 100 : 24. Cr. L.J. 84, the judgment of one of us (Wallace, J.), it was held that a conviction passed without reasons when no evidence is recorded is very different from a case where as here evidence is recorded. There is no record of any cross-examination but we are informed that accused was not defended and there was probably no cross-examination at all. The conviction is 'found guilty' and that is, the accused, was found guilty of assault and also failed to show cause against being bound over

under section, 106, Criminal Procedure Code. He was found guilty of an assault in the public street and we think there was no prejudice to the accused by the failure of the Magistrates to record a finding that accused was guilty of a breach of the peace. They, no doubt, should have done so but the accused had been previously bound over and as soon as his previous security expired, he broke out again. There is thus an irregularity but we hold it is cured as in the former case by Section 537, Criminal Procedure Code, and the criminal revision case is dismissed.

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