

Ashraf Ali Vs. Emperor

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SooperKanoon Citation : sooperkanoon.com/851335

Court : Kolkata

Decided On : Apr-23-1914

Reported in : AIR1915Cal784,(1915)ILR42Cal25

Judge : Holmwood and ;Sharfuddin, JJ.

Appellant : Ashraf Ali

Respondent : Emperor

Judgement :

Holmwood and Sharfuddin, JJ.

1. This was a Rule: calling upon the District Magistrate of Chittagong to show cause why the petitioners should not be admitted to bail. It is opposed by the crown represented by the learned Deputy Legal Remembrancer, and the District Magistrate has submitted an explanation in which he points out that one of the accused who was captured at the time has made a long confession implicating himself and the other persons who are now praying for bail before this Court, that the confession has been corroborated to a certain extent by evidence which has been recorded by the Magistrate, who was enquiring into the case, and in a few days' time Mr. Higgins, the complainant, who was assaulted, will be in a position to give his evidence and we do not know what light it may throw on the matter. But what we have to consider in this case is whether the corroboration is in the nature of material corroboration at law, and from the account which has been placed

before us by the learned Counsel appearing in support, of the Rule, we must say that, so far as it goes, it is what the law considers material corroboration. Of course we do not, and we should not think of throwing out any opinion as to whether this evidence is to be believed. We do not desire to prejudice the case in any way. We merely state that the evidence which is put before us through the learned Counsel is, if believed, evidence which in law amounts to material corroboration, and we think that the rule laid down in Section 497 for the guidance of Courts other than the High Court is a rule founded upon justice and equity and one which should be followed by us as well as by every other Court unless anything appears to the contrary. The extended powers given to the High Court under Section 498 are certainly not to be used to get rid of this very reasonable and proper provision of the law.

2. For these reasons we think that at the present stage of the case bail should, not be given. It will, of course, be within the competence of the lower Courts to admit the petitioners to bail at any time after Mr. Higgins is examined, or whenever it should appear that the prima facie case against them has in any way been weakened.

3. The Rule is discharged.