

The Empress Vs. Dedar Sirkar

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Court : Kolkata

Decided On : Jun-19-1877

Reported in : (1877)ILR2Cal384

Judge : Ainslie and ;McDonell, JJ.

Appellant : The Empress

Respondent : Dedar Sirkar

Judgement :

Ainslie, J.

1. We think that, under the circumstances stated by the Magistrate, it is not desirable that the Court should interfere in the present case. In the 4th paragraph of his letter the Magistrate expresses a doubt whether the High Court is competent to call upon him to state the grounds upon which he fixed the amount of security. With reference to this, we desire to call his attention to a ruling of the Madras High Court, at page 450 of Mr. Prinsep's edition of the Code of Criminal Procedure (4 Mad., H.C. Rep., App. 47), an expression of opinion in which we entirely concur. It is there said: 'The imprisonment is provided as a protection to society against the perpetration of crime by the individual, and not as punishment for a crime committed, and being made conditional in default of finding security, it is only just and reasonable that the individual should be afforded a fair chance at least of complying with the required conditions of security.' If the Magistrate declined to

furnish a statement of the grounds upon which he fixed the amount of security, this Court would have been unable to say that he had fixed it on just and reasonable grounds, and probably the result would have been that we should have felt bound to modify the order as prime facie unreasonable and unsupported by anything before us.

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