

Harihar Roy Vs. Emperor

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Court : Kolkata

Decided On : Aug-23-1918

Reported in : AIR1919Cal383

Judge : Teunon and ;Cuming, JJ.

Appellant : Harihar Roy

Respondent : Emperor

Judgement :

1. The petitioner in this case was a Havildar of Police serving in that capacity in the town of Jalpaiguri. He has now been prosecuted under Section 384, Indian Penal Code, on charges of extortion. His application is one for a transfer of the proceedings against him from the District of Jalpaiguri to some neighbouring District. It is based, not on allegation of any bias or partiality against the Magistrate in whose Court the petitioner is under trial, but on the allegation that by reason of orders made by the superior officers of Police he has been hampered in his defence.

2. From the papers that have been placed before us it appears that from the 30th April onwards he has been in. what may be termed detention in the Police lines, has been refused permission to go to (he town for purposes of marketing and has also been refused permission to go to legal practitioners at their homes or their places of business, the suggestion being that he is at liberty to bring to the lines

such Mukhtear or other legal practitioners as he may desire to consult. We are constrained to say that these proceedings on the part of his superior officers appear to us to be unreasonable. The petitioner though under trial is not a convict, and it is not desirable that in his choice of legal advisers he should be restricted to such practitioners as may be willing to see him and advise him in the Police lines. Whether under Section 8 of the General Police Act the superior officers of Police are entitled thus to restrict the liberties of a subordinate who happens to be under suspension and practically confine him to barracks for apparently an indefinite period, is not the question before us at the moment ; but' we must impress upon the Deputy Commissioner of Jalpaiguri that full opportunity must be given to this under-trial officer to consult his legal advisers and that all reasonable facilities for the conduct of his defence should be given to him. If this be not done, it will be necessary for this Court to consider whether pending the fuller recovery of his liberty the criminal proceedings against this petitioner should not be stayed. Meanwhile we trust that these observations will have due effect.

3. There being no allegation against the Magistrate in whose Court the proceedings are being conducted we discharge this Rule. Should the necessity arise it will be open to the petitioner to renew his application.

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