

Dehri Sonar Vs. Emperor

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Court : Kolkata

Decided On : Jan-04-1923

Reported in : AIR1923Cal707,77Ind.Cas.921

Judge : Newbould and; Suhrawardy, JJ.

Appellant : Dehri Sonar

Respondent : Emperor

Judgement :

1. This Rule was granted Only on the 6th ground set out in the petition which is in the following terms, 'that the trial has been vitiated by the admission of the evidence of previous conviction prior to this accused entering upon his defence.'

2. appears that on the 2rst June the accused was charged with having committed offences punishable under Sections 457 and 380 of the Penal Code, and that on the 18th July witnesses were examined to prove previous conviction of the accused, and a charge was framed that he we liable to enhanced punishment, tinder the provisions of Section 75 of the Penal Code, in consequence of previous conviction. We are unable to see that there hap been illegality r irregularity in the Magistrate's procedure. Section 310 of the Criminal Procedure Code lays down a special form of trial of the issue of liability to enhanced punishment in consequence of previous conviction. But this sect on is expressly made applicable to trials before the Court of Session only, and does not apply to trials before

Magistrates. In certain reported cases it has been held that the accused has been prejudiced by too early an admission of evidence as to previous conviction, but in the present case it has not been shown to us that there could have been any prejudice. We, therefore, hold that the ground on which this Rule was issued fails, and we accordingly discharge this Rule.

3. The petitioner must surrender to his bail, and undergo the unexpired portion of his sentence.

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