

that Sections 365 and 366 had no application to the death of a decree-holder whose representative applied for execution. In this case we are of opinion that the representative would have the same period to make his appeal as the plaintiff would have had if the appeal had been made by him.

We must, therefore, reverse the decree of the District Judge and remand the appeal for disposal. The costs of this appeal will be provided for in the final decree.

**NOTES.**

[See now the Limitation Act of 1908, Art. 176. See also 3 Bom. 221 ; 3 All. 759.]

[3 Mad. 238.]

**APPELLATE CRIMINAL.**

*The 15th July, 1881.*

PRESENT :

SIR CHARLES A. TURNER, KT., CHIEF JUSTICE, AND MR. JUSTICE  
MUTTUSAMI AYYAR.

In the matter of the Petition of Pedda Siva Reddi and another.\*

*Criminal Procedure Code, Section 505, order under—Evidence as to general character sufficient.*

The exercise of the power given by Section 505 of the Criminal Procedure Code† is not confined to cases in which positive evidence of the commission of crime is forthcoming against the persons charged.

THE petitioners in this case, with ten other persons, were produced before the Deputy Magistrate of *Pulvendale Taluk* and charged by the Police with being, by repute robbers, house-breakers, thieves, and dangerous characters, under Sections 505 and 506 of the *Criminal Procedure Code*.† The accused belonged to one village and were tried together.

Twelve witnesses were examined, and the Deputy Magistrate found that by repute all the accused were robbers, thieves, and dangerous characters ; that several money-lenders had left the [239] village on account of the dangerous character of the accused ; that during the last ten years more

\* Petition against the proceedings of S. T. McCarthy, Acting District Magistrate of Cuddaph, confirming the order of the Temporary Deputy Magistrate, dated 29th March 1881.

†[Sec. 505 :—Whenever it appears to such Magistrate, from the evidence as to general character adduced before him, that any person is by repute a

When Magistrate may require security for good behaviour for one year. robber, house-breaker, or thief, or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood, or is a dangerous character, such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

Procedure where security required for more than one year. Sec. 506 :—Whenever it appears to such Magistrate, from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief, or a receiver of stolen property, knowing the same to have been stolen, or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year, hazardous to the community, he shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number, character, and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour, and, if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention, pending the orders of the Court of Session.]

than 60 offences, murders, robberies, house-breaking and theft had occurred in the village, of which several had not been detected owing to the personal influence of the petitioners, the sons of the late Village Magistrate, who were the leaders of the gang; that the villagers dared not complain against any of the members of the gang for fear of being murdered by the petitioners; that the petitioners were twice accused of murder, but not convicted owing to the influence they had; that all the accused, except the petitioners, had been previously convicted of the house-breaking and thefts; and that it was necessary for the safety of the public to take security from all the accused. The petitioners were each called on to enter into bonds, for Rs. 1,000, and to find two sureties for Rs. 1,000, and in default were ordered to suffer rigorous imprisonment until the security was furnished.

The petitioners appealed against this order to the District Magistrate of *Cuddapah* without success, and finally presented this petition to the High Court under Sections 294—297 of the *Criminal Procedure Code*, praying for revision of the order.

*Gurumurthi Ayyar* for petitioners contended that the evidence was entirely hearsay and insufficient to support the order made against the petitioners.

The Court (TURNER, C.J., and MUTTUSAMI AYYAR, J.) delivered the following

**Judgment:**—There was evidence as to general character, from which the Magistrate was at liberty to find that the petitioners were *by repute* dangerous characters. Although, when witnesses are examined as to *general character*, their testimony is not of much value as to the habits of a suspected person, unless they can, in support of their opinion, adduce instances of the misconduct imputed, when the question is only as to his *repute*, the evidence of witnesses, if reliable, is not without value, though they may not be able to connect the suspected person with the actual commission of crime.

The power given by the 505th section, *Code of Criminal Procedure*, is one which should always be exercised with nice discretion by the Magistracy, but its exercise is not to be confined [240] to cases in which positive evidence is forthcoming of the commission of crime by the persons against whom it is sought to enforce the law. The power is a preventive and not punitive power. There is no illegality in the proceedings which necessitates interference with the Magistrate's order.

The petition is dismissed.