APPELLATE CRIMINAL.

Before Mr. Justice Seshagiri Ayyar and Mr. Justice Moore.

1919, October, 23 and 29.

K. RANGA REDDI (PETITIONER), ACCUSED,

v.

KING-EMPEROR (RESPONDENT).*

Criminal Procedure Code (V of 1898), ss. 110 (a) to (f), 112 and 117 (c)—Necessity of setting out substance of information received, in order under section 112—Trial of accused on charges under clauses (a) and (f) of section 110—Evidence of general repute—Inadmissibility to prove charge under clause (f)—Evidence to prove charge under clause (a).

Where an order under section 112, Criminal Procedure Code, does not clearly disclose the substance of the information received by the Magistrate, the proceedings cannot be regarded as legal.

Kripasindhu Naiko v. *Emperor*, (1918) 47 I.C., 277, followed.

To prove a charge under clauses (*a*) to (*e*) of section 110, Criminal Procedure Code, evidence of repute is admissible.

Per SESHAGIRI AYYAR, J.—Such evidence must relate to particular instances which have come to the knowledge of the deponent and must be specific. Mere belief and opinions without reference to acts and instances which have induced the witnesses to form the opinion can hardly be regarded as evidence of repute within the meaning of section 117, clause 3.

Per MOORE, J.—The evidence that is required is that of respectable persons who are acquainted with the accused and live in the neighbourhood and are aware of the accused's reputation. It must be the general opinion and not merely the repetition of what certain persons have said to the witnesses.

To prove a charge under clause (*f*) of section 110, Criminal Procedure Code, evidence of repute is inadmissible. The evidence must be of definite acts and instances Where a person is tried jointly under clause (*f*) and any of the other clauses of section 110, evidence of repute admitted with regard to the latter cannot be taken into consideration in deciding the charge under clause(*f*).

CRIMINAL Revision Petition under sections 435 and 439 of the Criminal Procedure Code, filed against the order of T. RAGHAVAYYA, District Magistrate of Anantapur, in Criminal Appeal No. 6 of 1918, preferred against the order of P. APPA RAO, Subdivisional Magistrate of Gooty, in Miscellaneous Case No. 13 of 1917.

* Crl. R.C. No. 360 of 1919.

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The Inspector of Police of Gooty filed an application before the First-class Magistrate of Gooty to take security for good behaviour from one Ranga Reddi under clauses (*a*) and (*f*) of section 110 of the Code of Criminal Procedure. The Magistrate made an order as prayed for. On appeal the District Magistrate confirmed the order. Against that the accused filed this Revision Petition to the High Court. Further facts are to be found in the judgment.

T. Richmond for petitioner.

V. L. Ethiraj for Public Prosecutor.

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SESHAGIRI AYYAR, J.—This is an application to revise the order of the District Magistrate of Anantapur, confirming the proceedings taken by the Deputy Magistrate of Gooty, calling upon the petitioner to enter into a bond for Rs. 5,000, with two sureties in a like sum. The first Magistrate was moved to take action under section 110 (*a*) and (*f*) of the Code of Criminal Procedure. He examined a large number of witnesses, thirty-eight for the prosecution and forty-one for the defence. He came to the conclusion that the petitioner should be bound over. In confirming that order, the District Magistrate refers to a defect in the procedure of the trial Magistrate, namely, that in recording and reading out the preliminary order under section 112, there was no attempt made to inform the accused of the substance of the information received, which led to the taking of action against him. The District Magistrate says, that the accused had ample opportunities in the course of the hearing to know what evidence was being given against him, and as he did not object to the legality of the preliminary order in the lower Court, the objection should be overruled. Although I do not propose to set aside the order on the sole ground that the information communicated to the accused under section 112 was not sufficient to comply with the requirements of the Code, I must point out that it is of the utmost importance in cases of this description that the first information should be clear and specific. The accused is to be put on his trial on information received behind his back. In the case of a complaint, the accused may be entitled to a copy, if he applies for it, but in the case of an information of this kind, which *ex necessite* is a confidential one, the accused is entitled to be told the nature

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and extent of the information on which the Magistrate intends to base the action against him. It is that communication that is expected to enable the accused to summon witnesses on his side. Therefore, if the substance of the report made to the Magistrate is not clearly disclosed, and the accused is not informed of the charges, of the nature of the evidence that he is to rebut, the proceedings cannot be regarded as legal. I entirely agree with the observations of my learned brother KUMARASWAMI SASTRI, J., on this question in *Kripasindhu Naiko* v. *Emperor*(1).

I now proceed to deal with the merits of the case. Objection was taken in this Court, by the learned Counsel for the petitioner, that most, if not the whole, of the evidence let in on the side of the prosecution, was irrelevant and inadmissible in evidence. The District Magistrate classifies in paragraph 4 of his judgment the evidence that has been given. He refers first of all to what he considers to be the reputation evidence. As regards that, he says, that if the order rested solely on it he would have set it aside. What I understand him to mean is, that the evidence of repute against and for the accused is so evenly balanced that, in the opinion of the appellate Magistrate, it would be unsafe to base the proceedings solely upon it. There was a large volume of evidence adduced by the petitioner which showed that, in the opinion of a considerable number of the people in and round the place, the accused is a man of good character. If that is the view taken by the District Magistrate, there is nothing to be said against it. But I am not sure whether he does not, to some extent, confuse the issue, by holding that evidence of repute is altogether inadmissible.

It is desirable to point out here in what cases evidence of repute may be permitted in proceedings of this character and in what cases it should be avoided altogether. Under section 110, there are six categories of offences: the first five relate to habitual misconduct: and the sixth, to the accused being desperate and dangerous. Section 117, clause (3), provides that a person is a habitual offender may be proved by evidence of general repute or otherwise. This language is not very happy, and Courts have been often at pains to understand the

(1) (1918) 47 I.C., 277 (Mad.).

idea which led the legislature to enact this clause. The expression "habitual offender," I believe, covers all the first five categories of offences mentioned in section 110. One thing at least is clear, that to bring home the charge under section 110, clause (*f*), evidence of general repute is not admissible. According to the ordinary rules of evidence, evidence is not admissible to prove that a man is of a bad character. Therefore, clause 3 of section 117 must be taken to have been introduced by way of exception to the general law. If that is so, the exception must be limited to the particular offences referred to in it. That I understand to have been the view taken by Justice SANKARAN NAYAR in *Muthu Pillai* v. *Emperor*(1). In that case it was contended for the Crown that, by admitting evidence of general repute for proving the first five categories of offences in section 110, Courts can subsequently utilize it for showing that the accused is of a desperate character. The learned Judge rightly overruled this suggestion, because it would be enabling the Crown to let in evidence indirectly, which it cannot directly do. I am clear that it is not open to the Magistrate to look into evidence of general repute for finding that a man is dangerous and is a desperate character within section 110 (*f*) of the Code of Criminal Procedure. Mr. Justice BANNERJEE in *Emperor* v. *Bidhyapati*(2), pointed out that it is only for the purpose of establishing charges under section 110, clauses (*a*) to (*e*), that repute evidence is admissible. I am in entire agreement with the pronouncement of SANKARAN NAYAR, J., and BANNERJEE, J., on this matter.

The evidence let in in this case, would have, therefore, to be excluded to a considerable extent. The District Magistrate divides the rest of the evidence into two classes, the evidence of official witnesses of sufficient standing, and the evidence of witnesses who speak of particular acts of criminality on the part of the accused. Under the first heading, he relies mainly upon the evidence of a Deputy Superintendent of Police, two Inspectors of Police, and some Sub-Inspectors of Police. One caution which the learned Magistrate has not kept in view is, that in proceedings of this kind as far as possible the evidence of official witnesses, like Superintendents of Police and Inspectors

(1) (1911) I.L.R., 34 Mad., 255. (2) (1903) I.L.R., 25 All., 273.

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of Police, should be eschewed. Their minds are naturally biased by the reports that they receive from their subordinates regarding the movements and antecedents of the accused whom they report to the Magistrate should be bound over. Therefore, their evidence would in the nature of things ordinarily exhibit bias against the accused. This was pointed out in *Abdul Khaliq* v. *Emperor*(1) and *Kumeda Charan* v. *Asutosh*(2). It is a very salutary principle and although there is no rule of law which prohibits a Magistrate from admitting Police evidence, it should, if not wholly discarded, influence his judgment as little as possible. Bearing this in mind, I shall now examine the evidence given by the Superintendent of Police. He says that he knew the accused's reputation, and straightaway speaks of having heard of the accused being concerned in the getting up of dacoities. Then he says, as regards one of the cases the accused is said to have engineered :

"I sent the Head Constable to Tadpatri and found the allegations to be true."

This is both opinion and hearsay evidence. Then he refers to the entries in his diary, of his having been convinced that one of the articles found on a search of the house of the accused was stolen property. If that was the conviction of this witness, why did he not charge the accused before a criminal Court? The whole of this evidence, however much it may express the honest opinion of the officer, is either hearsay or rumour, or *a priori* conclusion. Not a single fact is spoken to excepting that relating to the ear-ring. As regards the identity of the ear-ring, the owner has not been examined to prove that it was his property and was stolen from him. The whole of this evidence, namely, that of prosecution witness No. 18, must be rejected.

Then I turn to another witness, prosecution witness No. 31. He is the Circle Inspector. He first refers to the accused having been entered in the surveillance register, then to a letter from the Superintendent of Anantapur to another Superintendent, which the witness was permitted to look into, in which it was mentioned that the accused organized a gang of dacoits. Then he refers to his having heard that some Jutur

(1) (1915) 28 I.C., 329 (All.). (2) (1912) 16 C.L.J., 282.

men were members of a gang. Then he refers to an entry in his diary that the accused paid an advance of Rs. 50 for purchasing a ticket and so on. In cross-examination he said "I made no inquiries regarding the purchase of tickets". The whole of this evidence must be set aside. The same remark applies to the evidence of the 7th witness. He says that he once went to the house of the accused to check his presence. The accused refused to give him information. "I wrote in my note book what took place." Why this evidence was recorded and how the trial magistrate considered it relevant, I cannot understand.

The evidence of the other Police witnesses is of the same description as that to which I have referred. It seems to me that this evidence should be regarded as inadmissible, even if it was given by a private party. They are further vitiated by the fact that it is a record of opinions, rumours and hearsays, which, as Police officers, they entered in their notebooks.

Then I turn to the evidence of the second class. The District Magistrate specially refers to the evidence of prosecution witness No. 16, and prosecution witness No. 17. As regards prosecution witness No. 16, in my opinion, it is very irrelevant, to say the least. The vakil says that he heard from somebody that a dacoity was about to be committed in the house of a client of his and that he warned that client. How is this evidence against the accused? The learned Public Prosecutor said that this evidence must be read with that of Prosecution witness No. 17. Prosecution witness No. 17 says:

"I knew the accused. He bears a bad reputation and he is given to committing burglary, dacoity and has bad associates."

Such a general statement can be of no assistance to a Court. It is against all principles to record such vague statements, without calling upon the witness to give specific instances which could be scrutinized and which the accused will be in a position to rebut. He says, later on, "the dacoits were expected to proceed from Jutur and from the house of the accused". He admits, as a matter of fact, that owing to his vigilance and the vigilance of his friend, no dacoity took place. This very unsatisfactory evidence should not have been allowed to influence the mind of the Magistrate against the accused. Prosecution witness No. 12

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only says that the accused and his men returned on a particular occasion to their houses saying that Subba Reddi escaped. The 13th witness deposed that about four months back the accused was talking of murdering Subba Reddi. He said, he went to the house, where he heard the conversation, as a coolie to do work for the owner; but he did not inform anybody about the intended murder, and that nothing afterwards happened.

This kind of evidence can be manufactured against any individual, respectable or otherwise, and no man's reputation can be safe, if evidence like this were to influence the proceedings of a Magistrate. I felt considerable doubt as to whether evidence as regards clauses (*a*) to (*e*) of section 110 should not relate to something in the nature of previous convictions. The learned Public Prosecutor drew our attention to *In re Pedda Siva Reddi*(1), wherein the learned Judges say:

"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 suspected person with the actual commission of crime."

I am not sure that I understand this judgment. Section 110, clauses (*a*) to (*e*), speak of a man being a habitual robber, a habitual receiver of stolen property and a habitual harbourer of thieves, a habitual extortioner, or a habitual committer of breach of the peace. In my opinion, the evidence on which the Magistrate has to base his conclusion must relate to particular instances which have come to the knowledge of the deponent and so must be specific. Evidence relating to mere beliefs and opinions, without reference to acts or instances which have induced the witnesses to form the opinion, can hardly be regarded as evidence of repute within section 117, clause (3). Habitual criminality cannot be regarded as established by the repetition of beliefs and opinions. At any rate, Courts ought to discard such evidence as much as possible. *Emperor* v. *Sheikh Abdul*(2), *Chintamon Singh* v. *Emperor*(3), and *Kalai Haldar* v.

(1) (1881) I.L.R., 3 Mad., 238. (2) (1916) I.L.R., 43 Calc., 1128.
(3) (1908) I.L.R., 35 Calc., 243.

Emperor(1), seem to lay down this view, and I respectfully follow these decisions. Therefore the evidence of prosecution witness No. 13, which speaks generally of the reputation of the accused without reference to specific acts, is not, in my opinion, sufficient to bring the charge home to the accused.

The petitioner is a young man of 30 years of age and is in fairly well-to-do circumstances. It is said that he has property worth a lakh of rupees and debts to the extent of thirty thousand rupees. These debts have all been purchased by prosecution witness No. 22, a distant relation of the accused. It is he that moved the Police to take action in the matter. He has put pressure to bear upon the accused by purchasing litigation There has not been a single instance in which the accused has been convicted of an offence. Under these circumstances, having regard to the nature of the offence charged, and to the character of the evidence let in, I feel no doubt that the proceedings should be set aside altogether. The bond executed by the petitioner and by his sureties must be cancelled and given up.

MOORE, J.—The petitioner has been ordered, under section 118 of the Code of Criminal Procedure, to enter into a bond for Rs. 5,000 with two sureties for a like amount to be of good behaviour for a period of three years.

The facts of the case are unusual. The petitioner is a Reddi owning landed property and paying an assessment of Rs. 1,000. The Police moved the Subdivisional Magistrate of Gooty for security being taken from the petitioner under section 110, clauses (*a*) and (*f*), of the Code of Criminal Procedure, on the ground (1) that he was by habit a robber, house-breaker and thief, and (2) that he was so desperate and dangerous as to render his being at large hazardous to the community. The Subdivisional Magistrate in the preliminary order, which he issued under section 112 of the Code of Criminal Procedure, did not set out the substance of the information contained in the Police charge-sheet. The order merely reproduces the language of clauses (*a*) and (*f*) of section 110 of the Code of Criminal Procedure. This was clearly irregular.

(1) (1902) I.L.R., 29 Calc., 779.

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"A notice under section 110 of the Code of Criminal Procedure must contain something more than a reproduction of the clauses of the section. There should be sufficient indication of the time and place of the acts charged, and sufficient details to enable the accused to know what facts he has to meet."

As stated by KUMARASWAMI SASTRI, J., in *Kripasindhu Naiko* v. *Emperor*(1). However, I agree with the District Magistrate that this defect is not a sufficient ground for quashing the proceedings, as it is not shown that the petitioner was prejudiced by the defect.

After a protracted inquiry, the Subdivisional Magistrate passed an order requiring the petitioner to give security and on appeal the order was confirmed by the District Magistrate. The first objection taken by Mr. Richmond, for the petitioner, is that a charge under clause (*f*) of section 110 of the Code of Criminal Procedure cannot be proved by evidence of repute, but must be proved by definite evidence; and reliance is placed on *Muthu Pillai* v. *Emperor*(2). In that case, Mr. Justice SANKARAN NAYAR held, following *Kalai Haldar* v. *Emperor*(3), that when a person is solely charged under section 110 (*f*) of the Code of Criminal Procedure, evidence of general repute is not admissible to prove that he is a desperate and dangerous character. That is clear from the wording of section 117 (3), of the Code of Criminal Procedure, which says that for the purposes of this section the fact that a person is an habitual offender may be proved by evidence of repute or otherwise. The learned Judge did not, however, express any opinion on the question whether when a person is tried jointly for charges under clause (*f*) and any other clause of section 110 of the Code of Criminal Procedure, a finding that he is an habitual offender can be taken into consideration in deciding the charge under clause (*f*). The lower Courts have not in my opinion kept in view the distinction between evidence as to general repute, which was undoubtedly admissible to prove that the petitioner was an habitual offender, and the evidence requisite to prove a charge under clause (*f*), which must be of a definite character. The Subdivisional Magistrate, for instance, says that the witnesses speak of

(1) (1918) 47 I.C., 277 (Mad.). (2) (1911) I.L.R., 34 Mad., 255.
(3) (1902) I.L.R., 29 Calc., 779.

"specific acts of misconduct attributed to the accused which in fact form the basis for their information and impressions. The evidence against the accused is so general and overwhelming that there is not the slightest doubt that he associates and intrigues with criminals and bad characters, and has been in the habit of committing dacoities, house-breakings, and thefts or other offences of the kind specified."

Finally, the Subdivisional Magistrate says:

"I am perfectly satisfied from all the foregoing that the accused is by habit a robber, house-breaker, thief, and that his being at large without security is hazardous to the community."

The District Magistrate has fallen into the same error. He states that:

"Most of the evidence on either side concerns the reputation of the appellant . . . while many of the witnesses for the prosecution say that the appellant has a reputation for habitually engineering dacoities, robberies and thefts, and that he is dangerous to society."

The next objection taken by Mr. Richmond is, that the Magistrate erred in admitting a large body of irrelevant hearsay evidence, in the belief that it was admissible as evidence of repute. This objection is, I think, well founded. Hearsay evidence amounts to evidence of repute and is admissible for the purpose of section 110 of the Code of Criminal Procedure, and this provision of the law being an exception to the general rule of evidence, in such cases evidence of repute though hearsay is admissible: *Emperor* v. *Raoji*(1) and *In the matter of Pedda Siva Reddi*(2). But, as was pointed out in *Rai Isri Pershad* v. *Queen Empress*(3), a case which is frequently quoted—

"It is hardly necessary to say that evidence of rumour is mere hearsay evidence and hearsay evidence of a particular fact. Evidence of repute is a totally different thing. A man's general reputation is the reputation which he bears in the place in which he lives amongst all the townsmen, and if it is proved that a man who lives in a particular place is looked upon by his fellow townsmen, whether they happen to know him or not, as a man of good repute, that is strong evidence that he is of that character. On the other hand, if the state of things is that the body of his fellow townsmen, who know him, look upon him as a dangerous man and a man of bad habits, that is strong evidence that he is a man of bad character, but to say that because there are rumours in a particular place among a

(1) (1882) 6 Bom. L.R., 34. (2) (1881) I.L.R., 3 Mad., 238.
(3) (1896) I.L.R., 23 Calc., 621.

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certain class of people that a man has done particular acts or has characteristics of a certain kind, those rumours are in themselves evidence under this section is to say what the law does not justify us in saying."

When it is sought to prove the reputation of a person, the evidence which is required is that of respectable persons who are acquainted with the accused, and live in the neighbourhood, and are aware of his reputation. The test of the admissibility of the evidence of general opinion is whether it shows the general reputation of the accused, and it should at the least be the opinion of a considerable number of persons. It must not be merely the repetition of what certain persons have said to the witnesses.

Coming now to the facts of the present case, the evidence of the accused's general repute and bad livelihood, when examined, is very weak and largely hearsay. For instance, prosecution witness No. 8, who acted for a short time as Village Munsif of Jutur, the petitioner's village, says

"The accused is reputed to be a thief. He never had thefts committed in my village."

The witness gives the names of three persons who consider the accused to be a thief and says :

"I consider the accused as a man of bad character on the strength of what these persons told me. My individual opinion is that the accused is a bad manhaving some people to commit thefts."

Such evidence which is based on rumours should not have been admitted. Prosecution witness No. 10, a resident of Jutur, begins his deposition by saying :

"I know the accused who is a man of bad character. He is a murderer and dacoit. His reputation is such."

In cross-examination, prosecution witness No. 10 states :

"I cannot say who said that the accused was a dacoit and a murderer. The whole village said so."

The witness is not a man of any position, has been convicted of gambling, and is admittedly an enemy of the petitioner. Prosecution witness No. 21, who belongs to another village, states :

"I know the accused for six or seven years. He bears the reputation for committing dacoity and murder."

When asked to justify this statement, the witness had to admit in cross-examination that he could not say who told

him of the accused's bad reputation. I am surprised that the Subdivisional Magistrate should have allowed such evidence, which was calculated to seriously prejudice the accused, to go in. Prosecution witness No. 17 is a vakil, practising in Gooty. In examination-in-chief he stated, that he knew the accused, that he bore a bad reputation, was given to commit burglary and dacoity, and that he had bad associates. It was elicited, however, in cross-examination that the witness was a friend of prosecution witness No. 22 (a wealthy and influential man and a bitter enemy of the petitioner), that during the past five years he had very rarely gone to Jutur, had never seen the petitioner there, and that prosecution witness No. 22 and others told him about the reputation of the petitioner. The statement of the District Magistrate, that the witness has known the accused "long and well," does not appear to be correct. There is undoubtedly a good deal of evidence that the petitioner is suspected of planning dacoities, but it is not clear why a man in the position of the petitioner should have earned this unenviable reputation. Prosecution witness No. 24, for instance, says:

"The accused is a man of large property. I do not know why such a man attempted to commit dacoity."

After reading the voluminous evidence of the prosecution witnesses, I am inclined to think that there is a good deal behind the case, and that the charge is the outcome of family feuds among the Reddis. For instance, prosecution witness No. 32, who was Village Munsif of Jutur and is a dayadi of the accused, states that the accused is a man of bad character, committing thefts and dacoities and that he has sent several reports regarding the bad character of the accused and his absence from the village. In cross-examination, however, he admitted that he had been at enmity with the accused from the time of his father, that he was on friendly terms with prosecution witness No. 22, his father's cousin, that there had been long standing ill-feeling between prosecution witness No. 22 and the accused, and that there are two parties, one headed by prosecution witness No. 22 and the other by the accused. Finally, he admitted that his opinion that the accused was a dacoit and robber was based solely on what his gumastah told him, and that he did not know personally that accused

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associated with bad characters. The only other non-official witness to whose evidence it is necessary to refer is prosecution witness No. 34. He pays an assessment of Rs. 300. He deposed that he had heard of dacoities said to have been committed by the gangs of the accused and his brother-in-law Chinna Reddi. He made an extraordinary statement, that one Muni Reddi owed the accused Rs. 8,000, and a suit was filed and compromised after payment of booty in dacoity. The whole of this evidence is hearsay. The witness had to admit that he could not say from what source he got his information or give the names of his informants, and also that there had been civil suits between accused's father-in-law and himself. There is also the evidence of a number of police officers, prosecution witnesses Nos. 1, 2, 3, 4, 7, 18, 19, 20, 25 and 31, that the petitioner is a registered suspect, that he and his brother-in-law are reputed to organize dacoities, and that his house has been more than once searched. I have read the evidence of these witnesses and I do not think that much weight can be attached to it. The witnesses admit that the accused has never been charged in any case. The evidence of the Police witnesses amounts to this, that rumours are current in the Police circle that the petitioner organizes dacoities and is an associate of bad characters and that his movements have been watched. For the foregoing reasons, I consider that there is not sufficient evidence to support the charge under section 110 (*a*) of the Code of Criminal Procedure, that the petitioner is by habit a thief or a dacoit.

As regards the charge under section 110 (*f*), it has been held in *Kalai Haldar* v. *Emperor* (1) that to prove a charge that an accused person is so desperate and dangerous as to render his being at large without security hazardous to the community there should be proof of specific acts showing that he is a desperate and dangerous character. I respectfully agree with this decision. Practically the only evidence on this part of the case is that of prosecution witnesses Nos. 16, 17, 12, 13 and 22.

Prosecution witness No. 16, a High Court Vakil, practising in Cuddapah, says that five years ago he sent a telegram to prosecution witness No. 22 warning him that a dacoity was likely to be committed in his house. The witness cannot even

(1) (1902) I.L.R., 29 Calc., 779.

remember the names of the persons who were planning the dacoity. Prosecution witness No. 17 says that he was with prosecution witness No. 16 when he sent the telegram and that the information he got was that the dacoits were expected to come from the accused's house in Jutur.

The District Magistrate says that prosecution witnesses Nos. 12 and 13 refer to "definite attempts made by the accused to bring about the murder of prosecution witness No. 22," but this is hardly correct. Prosecution witness No. 12 states that he met the accused and four or five others, that they asked him whether prosecution witness No. 22 had gone that way, that they returned saying that prosecution witness No. 22 had escaped and that he informed prosecution witness No. 22 two or three days afterwards. The accused gave evidence against this witness's son in a murder case. Prosecution witness No. 13 tells a ridiculous story of his having overheard a conversation between the accused and two other persons, in one Narasimha Reddi's house, and that they talked about murdering Pedda Subba Reddi. The evidence of these witnesses is worthless, and the District Magistrate was not inclined to attach much weight to it. Prosecution witness No. 22 is a wealthy man and a District Board member. He is a cousin of the petitioner, and they are admittedly enemies, He says that he had been warned by prosecution witnesses Nos. 12 and 13 that the accused was threatening to murder him and that he sent a petition to the police. It appears to be clear that it was at the instance of this witness that these security proceedings were instituted.

I am unable to agree with the District Magistrate that there is a large body of evidence "regarding the petitioner's bad life, his habit of engineering crimes and his general desperate character." The evidence on record does not warrant any such conclusion. The District Magistrate also says that there is evidence of witnesses who speak to "definite acts of criminality on the part of the petitioner." But I cannot find any definite evidence of any specific acts of violence committed by the petitioner. In my opinion the order requiring the petitioner to furnish security to be of good behaviour cannot be supported, and should be set aside.

N.R.