

This is a mere technical irregularity ; but on general grounds we think that the mere fact that the person from whom the security was demanded had been previously convicted of offences against property is not in itself sufficient to justify proceedings under s. 110 of the Code, unless there is additional evidence, (which in this case there is not), that the person complained against has done some act, or resumed avocations that indicate on his part an intention to return to his former course of life, and to pursue a career of preying on the community. In this case the person from whom security was required had only recently been released from jail, and we think it was rather the duty of the police to assist him in finding honest employment than to apply to have him incarcerated for a further period merely on the ground of his previous convictions.

We set aside the order of the Bench and direct that Haidar Ali be released.

T. A. P.

Order set aside.

Before Mr. Justice Tottenham and Mr. Justice Agnew.

CHUNDER KOOMAR PODDAR v. CHUNDRAN KANTA GHOSE AND
ANOTHER.*

1885

November 19.

Criminal Procedure Code, 1882, s. 145—Inquiry as to possession—"Actual Possession."

Under s. 145 of the Criminal Procedure Code, a Magistrate has to look to the "actual possession," that is, the possession, however obtained, of the party in possession at the time of the inquiry. *Ambler v. Pushong* (1) followed.

THIS case merely followed the interpretation put on s. 145 of the Criminal Procedure Code, in the case of *Ambler v. Pushong* (1).

Baboo *Rashbehari Ghose* for the petitioner.

Baboo *Durga Mohun Dass* for the opposite party.

J. V. W.

* Criminal Revision No. 344 of 1885, against the order of F. H. Barrow, Esq., Officiating Magistrate of Fureedpore, date June 12th, 1885.

(1) I. L. R., 11 Calc., 365.