

1898

THE
MUNICIPAL
BOARD OF
CANNPORE

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LALLU.

1898
January 12.

BY THE COURT.—The decree of the Court is that the appeal is allowed, the decree of the lower appellate Court is set aside and that of the Court of first instance restored. The appellants will have their costs here and in the lower appellate Court.

Appeal decreed.

REVISIONAL CRIMINAL.

Before Sir John Edge, Kt., Chief Justice.

QUEEN-EMPRESS v. RAHIM BAKHSH.*

*Criminal Procedure Code, section 110 et seqq.—Security for good behaviour—
Object of demanding security—Discretion of Magistrate in accepting
or refusing sureties tendered.*

The object of requiring security to be of good behaviour is, not to obtain money for the Crown by the forfeiture of recognizances, but to insure that the particular accused person shall be of good behaviour for the time mentioned in the order. It is therefore reasonable to expect and require that the sureties to be tendered should not be sureties from such a distance as would make it unlikely that they could exercise any control over the man for whom they were willing to stand surety. *Narain Soobodhee* (1) not followed.

Rahim Bakhsh was found by the Joint Magistrate of Saháranpur, acting under section 110 of the Code of Criminal Procedure, to be an habitual burglar and receiver of stolen property, and was called upon to enter into a bond for Rs. 500, with two sureties each in Rs. 250, to be of good behaviour for one year. From this order he appealed to the Magistrate of the district, who, after adverting to the evidence upon which the Joint Magistrate's order was based and signifying his approval of that order, went on to say:—"The security offered was that of persons living at a distance from Saháranpur where appellant lives. If the security is to be of any value for the purpose for which it is demanded, it must be offered by a person living near appellant's home where he can exercise efficient supervision over him. If such is offered it will be accepted." Against this order Rahim Bakhsh applied in revision to the High Court.

* Criminal Revision No. 679 of 1897.

(1) 22 W. R., Cr. R., 37.

Mr. *N. L. Paliologus*, for the applicant.

The Government Pleader (Munshi *Ram Prasad*), for the Crown.

EDGE, C. J. :—This is an application in revision. An order was made that a certain person proceeded against by a Magistrate under section 110 and the following sections of the Code of Criminal Procedure should give security himself and should obtain two sureties for his good behaviour for one year. It is obvious that the man Rahim Bakhsh was a man against whom such an order should have been made. His own witness, who is a respectable man, gave him an exceedingly bad character. It was proved to the satisfaction of the Magistrate that he was an associate of professional burglars and a receiver of stolen property. He lived and carried on an ostensible business of a milk seller (which in itself is an innocent occupation for a gentleman of his character), in the city of Saháranpur. The sureties whom he tendered lived in the Roorkee tahsíl. One had been rejected when first offered. On his own examination he showed that he knew practically nothing of the man for whom he was coming from Roorkee to act as surety. The Magistrate considered that sureties at Roorkee would probably have but little influence over a gentleman like Rahim Bakhsh residing at Saháranpur. In my opinion the Magistrate came to a proper conclusion. The object of requiring security to be of behaviour is, not to obtain money for the Crown by the forfeiture of recognizances, but to insure that the particular accused person shall be of good behaviour for the time mentioned in the order. It seems to me to be reasonable to expect and require that the sureties to be tendered should not be sureties from such a distance as would make it unlikely that they could exercise any control over the man for whom they were willing to stand surety. Of course magistrates must not act arbitrarily in these cases: they must be guided in each case by the facts of the case. I am certainly not prepared to follow the decision of the Calcutta Court in the case of *Nurain Soobodhee* (1). I dismiss this application.

(1) 22 W. R., Cr. R., 37.