

Before Mr. Justice Burkitt.
EMPEROR v. SHIB SINGH.*

1902
September 13.

Criminal Procedure Code, section 122—Security for good behaviour—Sureties offered refused on the ground of their relationship to the person required to find security.

Where, on an order to find security for good behaviour, the Magistrate refused to accept the sureties tendered on the sole ground that they were relations of the person against whom the order had been passed, it was held that relationship to the person called upon to find security was, so far from being an objection, a most useful qualification in the persons tendered as sureties.

In this case a Magistrate, acting under section 110 and the following sections of the Code of Criminal Procedure, passed an order calling upon one Shib Singh to find security for good behaviour. Sureties were tendered who were relations of Shib Singh, but they were rejected by the Magistrate under section 122 of the Code. Against the order of rejection an application in revision was presented to the High Court, and on inquiry from the Magistrate concerned, it was ascertained that, except for their relationship to Shib Singh, the sureties offered were otherwise unobjectionable.

Babu *Satya Chandra Mukerji*, for the applicant.

BURKITT, J.—The Magistrate of the District, in reply to an inquiry from this Court, has reported that if the relationship between the appellant and the persons tendered as sureties be not taken into consideration, those persons are fit persons to be accepted as sureties for the said person. In my opinion the Magistrate is wrong in refusing to accept as sureties persons otherwise fit, because those persons are relations of the person ordered to give security. In fact, to my mind it is, on the contrary, desirable that relations should, under such circumstances, be accepted as sureties, they being persons who not only would be interested in restraining their relative from committing offences, but who also by reason of their relationship might be able effectually to use their family influence over him for that purpose. So far from considering relationship a reason for refusing, I am of opinion that it is a most useful qualification in the persons tendered as sureties, if they be in other respects suitable. I must set aside that part of the Magistrate's

* Criminal Revision No. 561 of 1902.

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order, which declines to accept as sureties those persons, because they are relations, and as they are reported to be otherwise persons whose security may be accepted, I direct that it be accepted.

Before Mr. Justice Burditt.

EMPEROR v. IMTIAZAN AND OTHERS.*

Criminal Procedure Code, section 198—Act No. XLV of 1860 (Indian Penal Code), section 495—Bigamy—Prosecution started at the instance of the second husband's brother—“Person aggrieved.”

Held that in respect of a prosecution for bigamy the brother of the second (bigamous) husband of the accused was not a “person aggrieved” within the meaning of section 198 of the Code of Criminal Procedure, *Queen-Empress v. Bai Rukshmoni* (1) followed.

IN this case one Rustam Khan brought a charge under section 420 of the Indian Penal Code against two persons, Basharat Khan and Karamat Khan, the brothers of Musammât Imtiazan. In his deposition as complainant in that case, Rustam Khan further formulated a charge against Imtiazan of having entered into a marriage with his brother Khiali Khan during the lifetime of her legal husband Taleyar Khan, suppressing the fact of such former and subsisting marriage. A charge was framed against Imtiazan under section 495 of the Indian Penal Code, and against Basharat Khan and Karamat Khan under the same section read with section 109 of the Code, and they were all three committed to the Court of Session. It was there argued on behalf of the accused that the commitment could not stand because Rustam Khan, the complainant, was not a “person aggrieved” within the meaning of section 198 of the Code of Criminal Procedure, and reference was made to the case of *Queen-Empress v. Bai Rukshmoni* (1). The Sessions Judge, however, considered that, under the circumstances of the case, Rustam Khan was a “person aggrieved,” and ultimately convicted and sentenced the three accused in respect of the offences charged. Against these convictions and sentences the convicts appealed from jail to the High Court.

The Government Pleader (for whom Munshi *Gokul Prasad*) for the Crown.

* Criminal Appeal No. 681 of 1902.

(1) (1886) I. L. R., 10 Bom., 340,