

21-11-16

where both the demands may be combined at the same time and place in the presence of the vendor and the vendee. The passage in question is no authority for the proposition that *talab-i-ish-tishhad* need not be made. In the present case it is not pretended that the *talab-i-muwasiбат* was made in the presence of the vendor and the vendee. In fact, according to the evidence it was made in their absence at the house of a friend or relative of the appellant. The authorities relied upon by the appellant do not bear out his contention. I therefore hold that the omission of the *talab-i-ish-tishhad* is fatal to the claim of the appellant pre-emptor.

BY THE COURT.—The order of the Court is that the appeal is dismissed with costs.

Appeal dismissed.

1916

MUHAMMAD
AHMAD
SAID KHAN
v.
MADHO
PRASAD.

REVISIONAL CRIMINAL.

Before Mr. Justice Walsh.
EMPEROR v. MUNNA.*

1916
August 15.

Criminal Procedure Code, section 110—Security for good behaviour—Jurisdiction—'Residence' of person proceeded against not material.

In order to give jurisdiction to a Magistrate to proceed under section 110 of the Code of Criminal Procedure, it is not necessary that the person proceeded against should be "residing" within the local limits of his jurisdiction.

The meaning of the expression 'any person within the local limits' in section 110 is 'any person who is within the local limits at the time the Magistrate takes action under the section.' *In re K. Rangan* (1) followed. *Ketaboi v. Queen-Empress* (2) dissented from.

THIS was an application in revision on behalf of the Local Government against an order of the Sessions Judge of Bareilly setting aside an order passed by a Magistrate under section 110 of the Code of Criminal Procedure. The ground of the Sessions Judge's decision was that the person dealt with by the Magistrate did not 'reside' within the local limits of the Magistrate's jurisdiction, and the Magistrate was therefore not competent to initiate proceedings against him under section 110.

*Criminal Revision No. 586 of 1916, by the Local Government, from an order of E. M. Nanavatty, Sessions Judge of Bareilly, dated the 22nd of May, 1916

(1) (1901) I. L. R., 36 Mad., 96. (2) 1900) I. L. R., 27 Cal., 993.

1916

 EMPEROR
 v.
 MUNNA.

The Government Pleader (Babu *Lalit Mohan Banerji*) for the Crown.

The opposite party was not represented.

WALSH, J.—This is a revision on the application of the Government Advocate. I think the learned Sessions Judge has come to an erroneous conclusion founding himself upon a decision of this Court under section 107, which does not apply, and upon a decision of a Calcutta High Court reported in *Ketaboi v. Queen-Empress* (1). That latter decision, which is certainly in point, has been dissented from by the Bombay High Court and also by the Madras High Court in a decision reported in *In re K. Rangan* (2), which I adopt. In cases of this kind arguments *ab inconvenienti* can always be produced on either side. On the one hand it may be said that a man accused of an evil reputation beyond the jurisdiction in which his residence is situated, might be subjected to great inconvenience in having to summon witnesses from a distance. It may be that that is one of the risks that travellers run in this country, but if they are persons of good character, it does not strike me as a very serious one. On the other hand it is obvious that a notorious thief who had made the Continent too hot for himself might remain at liberty enjoying a notorious reputation as a thief, and in his defence set up his residence in France. The safer course is to look at the statute. The section is perfectly plain. The Magistrate is given power to deal with persons who have a general reputation as bad characters, who happen to be within his jurisdiction. No language is used in the section bearing upon the question of residence at all. The case will have to go back to the Sessions Judge to confirm the order of the Magistrate or to deal with it as he thinks fit according to law. I may say that, although the Government Advocate was not present, I had the assistance of the Government Pleader.

Order set aside.

(1) (1900) I. L. R., 27 Calc., 993.

(2) (1901) I. L. R., 36 Mad., 98.