

Hamid Ali shot two deer. For this all the four persons were placed on their trial. It has been found that the four persons formed a party and went to the forest with the object of hunting. They had no permit and therefore they were punishable under the section mentioned above for violating the rules framed under clause (i) of the section. It is true that the two applicants did not actually shoot any deer. As the section makes shooting punishable, they could not be convicted of shooting in a reserved forest; but they were certainly hunting, and hunting without a permit is punishable under the section. Therefore the two applicants have, in my opinion, been rightly convicted. The sentences, however, seem to be severe. I reduce the sentence in the case of Barkat Ali to a fine of Rs. 25 and in the case of Hamid Ali to one of Rs. 20. Any sum paid in excess of the above amounts will be refunded.

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Conviction upheld.

Before Justice Sir Pramada Chavan Banerji.

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Criminal Procedure Code, sections 110, 123—Security for good behaviour—Security furnished—Record not required to be sent to the Sessions Judge for orders.

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Under section 123, clause (2), of the Code of Criminal Procedure it is only necessary to lay the proceedings before the Sessions Judge or the High Court when security has not been given, not when it has been given. *Rai Ishi Pershad v. Queen Empress* (1) referred to.

In this case one Ram Kishan was ordered by the officiating District Magistrate of Barcilly to give security to be of good behaviour for a period of two years. The security was furnished. Ram Kishan then applied in revision to the High Court, urging, *inter alia*, that the Magistrate should have sent the proceedings under section 123 (2) to the Sessions Judge for confirmation.

Mr. C. J. A. Hoskins, for the applicant.

The Assistant Government Advocate (Mr. R. Malcomson), for the Crown.

BANERJI, J.—Ram Kishan was called upon under section 110 of the Code of Criminal Procedure to furnish security for good

* Criminal Revision, No. 674 of 1917, from an order of R. W. Bigg-Wither, Officiating District Magistrate of Barcilly, dated the 23rd of June, 1917.

(1) (1895) I. L. R., 23 Cal., 621.

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behaviour on the ground that he was a man of a dangerous and desperate character. The officiating District Magistrate of Bareilly, who tried the case, made an order under section 118 directing Ram Kishan to furnish security to be of good behaviour for two years. As the security was furnished he did not submit the case to the Sessions Judge under section 123 of the Code. The first plea taken in the application for revision to this Court is that the learned Magistrate acted contrary to law in not complying with the provisions of section 123, sub-section (2), and not sending the record for the orders of the Sessions Judge. Having regard to the clear language of section 123, which is to the effect that if a person who has been ordered to furnish security does not give such security, the Court may direct him to be detained in prison pending the orders of the Sessions Judge. The learned counsel for the applicant did not press the plea. In the case of *Rai Isri Pershad v. Queen-Empress*(1), it was observed that the section has reference to a case where default is made in furnishing the security required, and that if security is given, the section does not apply and no reference to the Court of Session is necessary. Security having been furnished in this case, it was not necessary to submit the case to the Sessions Judge. As the order in the present case was made by the officiating District Magistrate, I have allowed the whole of the evidence to be laid before me by the learned counsel for the applicant. In view of that evidence, which shows that there are specific instances in which the accused had been maltreating people in trying to extort money and had been extorting money, it cannot be held that he has retrieved his character. He had already been convicted six times, and it is not satisfactorily shown that since his last conviction in 1914 he has improved his character. On the contrary, the evidence goes to prove that he is still pursuing his old habits. Under these circumstances I feel that I should not be justified in interfering with the order of the Court below. I accordingly dismiss the application.

Application dismissed.

(1) (1895) I. L. R., 23 Cal., 621 (627).