

REVISIONAL CRIMINAL.

Before Mr. Justice Lindsay.

EMPEROR v. UMA DUTT MISIR.*

1922
May, 3.

Criminal Procedure Code, section 514—Security to keep the peace—Proceedings for forfeiture of recognizance—Expiry of period of bond.

Where proceedings for the forfeiture of a bond for keeping the peace have been commenced before the expiry of the period for which the bond was given, the fact that such period has expired is no bar to their continuance. *In re Ram Chunder Lalla* (1) distinguished. *Emperor v. Raja Ram* (2) referred to.

THE facts of this case sufficiently appear from the judgment of the Court.

Babu Satya Chandra Mukerji and Pandit Narmadeshwar Prasad Upadhiya, for the applicant.

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

LINDSAY, J. :—The argument put forward in support of this application has the merit of ingenuity but I do not think it ought to be allowed to prevail.

The proceedings which are attacked were proceedings under section 514 of the Code of Criminal Procedure. The applicant, Uma Dutt Misir, was, by an order passed on the 14th of March, 1921 bound over to keep the peace for a period of one year. In or about the month of July, certain facts transpired which led to its being believed that Uma Dutt had been guilty of a breach of the conditions of the bond, and as a result of this information, proceedings were initiated against him under section 514. There can be no doubt that these proceedings were taken within the period provided by the bond. For one reason or another it became necessary to transfer the proceedings under section 514 from the court in which they were taken. It was held by this Court that those proceedings could only properly be taken in the court of the District Magistrate of Benares and not in the court of the Joint Magistrate who had taken up the case under section 514. An order was accordingly passed directing the District Magistrate of Benares to take the proceedings on to his own file. Instead of complying with this Court's order, the learned District Magistrate made over the case to a subordinate Magistrate, Mr. Gada Husain.

* Criminal Revision No. 165 of 1922, from an order of J. H. Darwin, District Magistrate of Benares, dated the 24th of March, 1922.

(1) (1877) 1 C. L. R., 134.

(2) (1903) I. L. R., 26 All., 202.

1922

EMPEROR
v.
UMA DUTT
MISTR.

Further application was made to this Court, which resulted in the proceedings taken in Mr. Gada Husain's court being set aside as being without jurisdiction and the learned District Magistrate was directed to hold an inquiry *de novo*.

By the time all this happened, the period of one year limited by the bond had expired, and it is now contended that inasmuch as the period has elapsed, no proceedings under section 514 are possible. I have been referred to a case, *In re Ram Chunder Lalla* (1), which had already been dissented from by a Divisional Bench of the Allahabad High Court in *Emperor v. Raja Ram* (2), of the Calcutta High Court in which it was held that where no proceedings under section 514 were taken by a Magistrate within the period limited by the bond, no action could be taken under this section after the term of the bond had expired. This, however, is a different case. There can be no doubt that action was taken within the period laid down in the bond and that the only reason why the case did not reach the stage of completion was that the learned District Magistrate had made a mistake in transferring the case from his own file to the court of a Subordinate Magistrate. It was this illegality in the procedure of the District Magistrate which led to all the delay. As I understand the position, the learned District Magistrate is now only carrying on the proceedings which were initiated within the period of one year from the date of the bond, namely, the 14th of March, 1921. In other words, the order of this Court was to direct the Magistrate to take up the case at the stage where he passed the illegal order and to continue the proceedings therefrom. I hold that there is no legal bar to the prosecution of this case under section 514, and I dismiss the application accordingly.

Application dismissed.

(1) (1877) 1 C. L. R., 134.

(2) (1903) I. L. R., 25 All., 202.