

REVISIONAL CRIMINAL.

Before Sir Henry Scott-Smith, Offg. Chief Justice.

HARNAM AND OTHERS—Petitioners,

versus

THE CROWN—Respondent.

Criminal Revision No. 361 of 1924.

Criminal Procedure Code, Act V of 1898, sections 112 and 118—Bond—how discharged on forfeiture.

Held, that the bond contemplated by sections 112 and 118, Criminal Procedure Code, is one bond for one amount, and is discharged on forfeiture by the payment of the amount either by the principal or the surety.

Kaku v. Queen-Empress (1), and Ali Mahomed v. Emperor (2), followed.

Saligram Singh v. Emperor (3), not followed.

Application for revision of the order of G. C. Hilton, Esquire, District Magistrate, Ludhiana, dated the 29th January 1924, affirming that of Khan Bahadur Rai Wali Muhammad Khan, Honorary Magistrate, 1st Class, Raikot, Tahsil Jagraon, District Ludhiana, dated the 15th December 1923, forfeiting half of the amount of security.

N. C. MEHRA, for Petitioners.

NEMO, for Respondent.

SIR HENRY SCOTT-SMITH, Offg. C. J.—Petitioners 1 to 5 as principals were bound over under section 107, Criminal Procedure Code, in the sum of Rs. 500 each to keep the peace for one year. Petitioners 6 to 8 between them executed five bonds as sureties in the same amount that petitioners 1 to 5 would keep the peace for one year. Within the period of one year the principals were convicted of offences under section 148, Indian Penal Code. Proceedings to forfeit the

(1) P. R. (Cr.) 1894. (2) (1911) 12 Cr. L. J. 404.
(3) (1909) I. L. R. 36 Cal. 562.

bonds were taken, and the Magistrate ordered that each principal should forfeit the whole amount of his bond, *viz.*, Rs. 500 and each surety should forfeit half the amount of his bond, *viz.*, Rs. 250; in other words, in respect of each principal, who was bound over, a sum of Rs. 750 was forfeited from principal and surety together.

In revision it is urged that the order is illegal, and that not more than the full amount of Rs. 500 could be recovered from each principal together with his surety. The argument is supported by the case of *Kaku v. Queen-Empress* (1) wherein it was held that the bond contemplated by sections 112 and 118, Criminal Procedure Code, is one bond for one amount, and is discharged, on forfeiture, by the payment of the amount due by either the principal or the surety. The same view was taken in another Punjab case *Ali Mahomed v. Emperor* (2), in which it was held that in no case can an amount in excess of the amount secured by the bond be demanded or recovered from the person bound or his sureties individually or collectively.

The contrary view was taken by a Division Bench of the Calcutta High Court in the case of *Saligram Singh v. Emperor* (3).

I agree with the view taken in the Punjab cases. I therefore allow the revision and in modification of the order of the Magistrate direct that in each case the sum of Rs. 500 be recovered from each principal together with his surety, the amount recoverable from the surety, however, being limited to Rs. 250.

A. N. C.

Revision allowed.

(1) 2 P. R. (Cr.) 1894.

(2) (1911) 12 Cr. L. J. 404.

(3) (1909) I. L. R. 36 Cal. 562.