

REVISIONAL CRIMINAL.

Before Mr. Justice Campbell.

RULYA SINGH AND ANOTHER, Petitioners

versus

THE CROWN, Respondent.

Criminal Revision No. 202 of 1926.

*Criminal Procedure Code, Act V of 1898, section 188—
Whether an order by the Political Agent directing a certificate to issue is a sufficient compliance with the provisions of the section.*

In this case when the commitment proceedings were commenced, the Magistrate had before him a certificate under section 188, Code of Criminal Procedure, signed "for the Agent to the Governor-General, Punjab States" by the Agent's Under-Secretary. Because this certificate was not signed by the Agent himself the Sessions Judge had doubts whether the commitment was legal and referred the point for orders to the High Court. It was proved before the Sessions Judge that on a date prior to the commencement of the commitment proceedings the Agent himself had signed an order directing that a certificate should issue.

Held, that the requirements of section 188 had been fulfilled and that the commitment was valid.

Emperor v. Kali Charan (1), distinguished.

Case referred by Rai Bahadur Lala Ganga Ram Soni, Sessions Judge, Ludhiana.

J. G. SETHI, for Petitioner.

RAM LAL, Assistant Legal Remembrancer, for Respondent.

ORDER OF THE HIGH COURT.

CAMPBELL J.

CAMPBELL J.—The facts clearly distinguish the case from those in which no certificate from the Political Agent has been obtained.

The relevant words of section 188, Criminal Procedure Code, are that no charge as to any such offence shall be enquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be enquired into in British India. The section does not mention the word 'certificate' at all and there is no direction for the signing of a certificate by any particular person. Nor is the manner prescribed in which it is to be proved that the Political Agent has certified that the charge ought to be enquired into in British India, although, obviously, the most convenient method of proving this is the production of a document signed by the Political Agent.

The situation here is in reality a very simple one. The Committing Magistrate commenced his proceedings on the 27th August 1925 and he then had before him a certificate in the following terms:—

“ Certified that the marginally-noted case is one which, in my opinion, should be tried in British India at Ludhiana.

(Sd.) Gyan Nath, R. B. Diwan,

Under-Secretary,

for Agent to the Governor-General,

Punjab States.”

It was not unreasonable for the Committing Magistrate to assume on the strength of this document that the Agent to the Governor-General, Punjab States, had himself certified that the charge ought to be enquired into in British India. Later on the question was raised of the validity of the commitment in the absence of a certificate signed by the Agent to the Governor-General himself. This involved enquiry,

1926

RULYA SINGH

v.

THE CROWN.

CAMPBELL J.

1926

RULYA SINGH
v.
THE CROWN.
CAMPBELL J.

not whether the Agent to the Governor-General had ever signed a document in any special form, but whether in fact he had certified before the committal proceedings commenced that the charge ought to be enquired into in British India. A certified copy of an order was then produced dated the 17th July 1925 signed by the Agent himself and directing that a certificate should issue under section 188 in this particular case. The copy of that order proved for all necessary purposes that on the 17th July 1925 the Political Agent had certified that, in his opinion, the charge ought to be enquired into in British India, and, as this date was prior to the commencement of the committal proceedings, the commitment was perfectly valid. The learned Sessions Judge has referred to *Emperor v. Kali Charan* (1), but the report indicates that there the required certificate was obtained some days before the commitment was actually made but not before the Committing Magistrate's proceedings had commenced, a fact which distinguishes the case from the present one.

I, therefore, refuse to interfere with the commitment and direct that the records be returned to the learned Sessions Judge. I should add that I have been asked to adopt the view, which I have taken, not only by counsel for the accused person but also by the learned Assistant Legal Remembrancer.

A. N. C.

Revision dismissed.