

to accept the opinion of another Judge on evidence that was not before that Judge. Be that as it may, it is perfectly clear that, in the opinion of the learned Sessions Judge, the present petitioner was the thief. Following *Queen Empress v. Muhammad Ali* (1), and Criminal Revision No. 6 of 1925, decided by Sir Henry Scott-Smith J., *Kehr Singh v. Emperor* (2). I must hold that the conviction in this case under section 215 cannot stand. I, therefore, accept this petition, set aside the conviction and sentence and direct that Godha be released forthwith.

N. F. E.

Appeal accepted.

REVISIONAL CRIMINAL.

Before Sir Shadi Lal, Chief Justice.

BIJA, Petitioner

versus

THE CROWN, Respondent.

Criminal Revision No. 1507 of 1926.

Criminal Procedure Code, Act V of 1898, sections 110 and 256—whether defendant under section 110 has right to recall prosecution witnesses for further cross-examination.

Held, that where a person is proceeded against under section 110 of the Criminal Procedure Code, he has no right to further cross-examine the prosecution witnesses under section 256 of the Code.

Crown v. Ahmad Bakhsh (3), and *Chintamon Singh v. Emperor* (4), followed.

Emperor v. Lansha alias Tura Ali (5), dissented from.

Case reported by H. Fyson, Esquire, District Magistrate, Ambala.

(1) (1910) I. L. R. 23 All. 81.

(3) 1 P. R. (Cr.) 1916.

(2) (1925) 88 I. C. 353.

(4) (1907) I. L. R. 35 Cal. 243.

(5) (1910) 9 I. C. 468.

1926

GODHA

v.

THE CROWN.

BROADWAY J.

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Dec. 10.

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BIJA

v.

CROWN.

GHULLU RAM, for Petitioner.

JAGAN NATH, BHANDARI, for Respondent.

The order of the District Magistrate forwarding the case to the High Court—

The facts of this case are as follows:—

The accused filed an appeal in this Court which decided, without touching on the merits of the case, that a retrial was necessary owing to the fact that the accused had not been allowed an opportunity to re-cross-examine the Crown witnesses after they had once been examined.

The proceedings are forwarded for revision on the following grounds:—

The re-cross-examination of Crown witnesses was under *Crown v. Ahmad Bakhsh* (1) unnecessary: the order in appeal should be quashed and the appeal returned to this Court for decision on the merits. Reference, however, is made to the Burma ruling *Emperor v. Lansha alias Tura Ali* (2), which was apparently not considered in *Crown v. Ahmad Bakhsh* (1).

ORDER OF THE HIGH COURT.

SHADI LAL C.J.

SIR SHADI LAL C. J.—The rule laid down in *Crown v. Ahmad Bakhsh* (1), is to the effect that a person proceeded against under section 110, Criminal Procedure Code, has no right to further cross-examine the prosecution witnesses under section 256, Criminal Procedure Code; and the same view has been taken by the Calcutta High Court in *Chintamon Singh v. Emperor* (3). The Single Bench judgment of the Burma Chief Court in *Emperor v. Lansha alias Tura Ali* (2), takes the contrary view, but does not

(1) 1 P. R. (Cr.) 1916. (2) (1910) 9 I. C. 463.

(3) (1907) I. L. R. 35 Cal. 243.

contain any discussion on the subject. Following the rule enunciated in *Crown v. Ahmad Bakhs* (1), I set aside the order of the District Magistrate, dated the 16th June 1926, and direct him to try the appeal on the merits.

N. F. E.

Revision accepted.

REVISIONAL CRIMINAL.

Before Mr. Justice Campbell.

MUHAMMAD, Petitioner

versus

THE CROWN, Respondent.

Criminal Revision No 1469 of 1926.

Restriction of Habitual Offenders (Punjab) Act, V of 1918, section 7—Order for restrictions must conform to Government rules.

Under section 7 of Punjab Act V of 1918, the petitioner was ordered by a Magistrate to be restricted for three years within the boundaries of his village, not to leave his house at night between 8 P.M. and 5 A.M., and to report himself daily to the Sub-Inspector of Police at Miani Police Station, 2½ miles distant from his village.

Held, that the order directing the petitioner not to leave his house at night was not in conformity with the rules made by the Local Government under section 16 of the Act and must be set aside.

Application for revision of the order of A. C. Macnabb, Esquire, District Magistrate, Shahpur, at Sargodha, dated the 23rd July 1926, affirming that of Mian Muhammad Nasir-ud-Din, Magistrate, 1st class, Sargodha, dated the 22nd June 1926, ordering that the movements of the petitioner be restricted for three years, etc.

TARA SINGH, for Petitioner.

SUNDAR DAS, for Government Advocate, for Respondent.

1926

BIFA
v.
CROWN.

SHADI LAL O.J.

1926

Dec. 19.