

REVISIONAL CRIMINAL.

Before Mr. Justice Addison.

KUNDAN—Petitioner

versus

THE CROWN—Respondent.

Criminal Revision No. 294 of 1927.

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June 14.

*Criminal Procedure Code, Act V of 1898, section 110—
General reputation of a man—meaning and proof of.*

The general reputation of a man is that which he bears amongst his fellow townsmen or in the neighbourhood in which he lives. Mere suspicion of complicity in this or that isolated offence is not evidence of general reputation. An order demanding security is not justifiable where a large body of apparently respectable witnesses of the neighbourhood testify to the good character of the accused as against the evidence of police officers.

The *Zaildar* and *Safedposh* are not police officers, but it is to their interest to give evidence on the police side.

Soman v. The Crown (1), *Nasir Bakhsh v. Queen-Empress* (2), and *Ajmal Singh v. Queen-Empress* (3), referred to.

Application for revision of the order of A. Latifi, Esquire, District Magistrate, Karnal, dated the 17th December 1926, affirming that of Munshi Lal Singh, Sub-Divisional Magistrate, Kaithal, District Karnal, dated the 31st August 1926, ordering the accused to execute a bond, etc.

SHAMAIR CHAND, for Petitioner.

D. R. SAWHNEY, Public Prosecutor, for Respondent.

JUDGMENT.

ADDISON J.—The petitioner has been ordered by a Magistrate of the 1st class to execute a bond with one surety in the sum of Rs. 1,000 under section 110 of the Criminal Procedure Code to be of good behaviour for three years on the finding that he is a

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(1) 37 P. W. R. 1910.

(2) 18 P. L. R. 1901.

(3) 2 P. R. (Cr.) 1898.

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habitual thief or receiver of stolen property. His appeal has been dismissed by the learned District Magistrate.

Twelve prosecution witnesses were examined. A Sub-Inspector of Police, a *Sufedposh* of Kaithal, and a *Zaildar* of another circle gave evidence of his general repute. Three persons stated that their stolen cattle were restored through the petitioner's influence on payment of various sums of money or otherwise. Their evidence standing alone is of little value. Four persons said that their stolen cattle were traced to the petitioner, though not recovered. This evidence does not amount to more than that the petitioner was suspected by these witnesses of being concerned in thefts of their cattle.

The *Zaildar* of petitioner's own circle deposed that, though he used to hear complaints against him, he had not done so for seven or eight months.

Mere suspicion of complicity in this or that isolated offence is not evidence of general reputation. The petitioner was challaned twice by the police but this was very many years ago, and of late years no complaint has been made against him of being concerned in any crime. He has never been convicted of any offence and he has from time to time been helping the police in various investigations. The principal evidence against the petitioner is, therefore, that of the three witnesses first mentioned above. None of them belongs to his own village but the Sub-Inspector of Police and *Sufedposh* would have better means of knowing his reputation, as the petitioner lives within their circle, than the *Zaildar* who belongs to a different circle.

On the other hand the petitioner has produced 46 respectable witnesses. Ten of these are *lambar-*

dars of neighbouring villages and nine are residents of his own village. Numerous *Mahajans*, who pay income-tax, belonging to the neighbouring town of Kaithal, have also given evidence in his favour while *Jats* of neighbouring villages have done the same. All have deposed that his character is reputed to be good. The trial Magistrate was unable to say that the defence witnesses were not respectable, but he rejected their evidence on the ground that as the petitioner was so influential as to be able to produce so many witnesses, the few who gave evidence against him must be speaking the truth. I am unable to understand this point of view. The learned District Magistrate thought that the defence witnesses gave evidence either because they had dealings with the petitioner or were respectable but timid people who were afraid to refuse to help him. This is going beyond the record. The *Mahajans* of Kaithal are in a secure position as they do not live in villages. The *lambar-dars* and other *Jats* cannot be said to be timid and have not been proved to have dealings with the petitioner.

A man's general reputation is that which he bears amongst his fellow townsmen or in the neighbourhood in which he lives. It was held in *Soman v. The Crown* (1) that where a large body of apparently respectable witnesses of the neighbourhood testify to the good character of the accused as against the evidence of police officers, an order demanding security is not justifiable. The *Zaildar* and *Sufedposh* are not police officers, but it is to their interest to give evidence on the police side. There should be no doubt what a man's general reputation is, *Nasir Bakhsh v. Queen-Empress* (2). Can it be said that there is no doubt in this

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(1) 87 P. W. R. 1910.

(2) 18 P. L. R. 1901.

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case, when the defence evidence is considered? When as good witnesses come forward to state that a man's reputation is good as those who state the contrary, it cannot be said that his reputation is bad, unless there is something to corroborate the witnesses against him, *Ajmal Singh v. Queen-Empress* (1). In the present case there is nothing to corroborate the witnesses against the petitioner as suspicion is of little or no avail, and the three witnesses who state that they recovered their cattle through him are not corroborated and their evidence is also of little value.

In my opinion the evidence of the respectable witnesses for the defence establishes beyond any doubt that the general reputation of the petitioner is good. Such a large volume of evidence cannot be rejected with safety, especially in view of the meagre prosecution evidence. I accept the petition and discharge the petitioner from his security.

A. N. C.

Revision accepted.

(1) 2 P. R. (Cr.) 1898.