

REVISIONAL CRIMINAL.*Before Mr. Justice Addison.*

UJAGAR SINGH, Petitioner

versus

THE CROWN, Respondent.

1928

April 20.

Criminal Revision No. 414 of 1928.

Criminal Procedure Code, Act V of 1898, sections 110 and 112—Security for good behaviour—Order calling upon accused to show cause—“substance of information received”, to be set forth—sections 117 and 118—Enquiry—proof—what amounts to.

Held, that an order under section 112 of the Criminal Procedure Code requiring a person to show cause under section 110 why he should not execute a bond for his good behaviour, and not setting forth the substance of the information received, is illegal.

Held further, that under sections 117 and 118 of the Code, it is the duty of the Magistrate to proceed to enquire into the truth of the information on which he takes action, and the execution of a bond can only be ordered if, upon such enquiry, the necessity for taking a bond from the person in respect of whom the enquiry has been made, is proved.

A statement by a police officer to the effect that the accused has a bad reputation, associates with bad characters and is suspected of having participated in burglaries, etc., does not constitute the kind of proof required ; nor is such evidence sufficient even where the accused is himself prepared to execute the bond.

Crown v. Sheodan (1), Prem Singh v. Crown (2), and In the matter of Rajendro Kishore Roy Chowdhry (3), followed.

Application for revision of the order of G. Worsley, Esquire, District Magistrate, Jullundur, dated the 14th December 1927, affirming that of Pandit Warat Chand, Magistrate, 1st class, Jullun-

(1) 24 P. R. (Cr.) 1915.

(2) 27 P. R. (Cr.) 1917.

(3) (1868) 10 W. R. 55.

1928
 UJAGAR SINGH
 v.
 THE CROWN.

dur. dated the 27th October 1927, ordering the petitioner to execute a bond for good behaviour, etc.

SHIV CHARAN DAS, for Petitioner.

Nemo, for Respondent.

JUDGMENT.

ADDISON J.

ADDISON J.—The petitioner was ordered under section 110, Criminal Procedure Code, to execute a bond for Rs. 5,000 with two sureties in like amount to be of good behaviour for a period of three years. His appeal was rejected by the District Magistrate, and he has preferred a revision petition in this Court.

I note that the Magistrate did not set forth the substance of the information received about the petitioner in the order he made under the provisions of section 112, Criminal Procedure Code. Further, the Magistrate only examined one witness, *i.e.* the Sub-Inspector of Police, who deposed that the petitioner had a very bad reputation in the *Ilaga*, that the people were afraid of him, that he associated with bad characters and was suspected of participation in 13 offences of house-breaking, burglary and cattle theft. The statement of the petitioner was then taken by the Magistrate. The petitioner was asked what he had to say as to why he should not be required to execute the aforesaid bond and the petitioner replied that he was prepared to execute it. Thereupon the Magistrate passed the order putting him upon security in the terms given above.

The order of the Magistrate is clearly illegal in that he did not follow the provisions of section 112, Criminal Procedure Code, and it is also clearly illegal in that he, without any enquiry, placed the petitioner upon security. It was held in *Crown v. Sheodan* (1),

that the petitioner's own statement before the Magistrate that he had no objection to giving security did not justify an order being passed against him under section 107, Code of Criminal Procedure. Similarly, it was held in *Prem Singh v. Crown* (1), that the mere statement by the petitioner that he was willing to give security was not sufficient to justify an order against him under section 107 of the Code of Criminal Procedure, and that such a statement was not the kind of proof required by section 118, Criminal Procedure Code, as condition precedent to the taking of security. Sections 117 and 118 are clear in themselves that it is the duty of the Magistrate to proceed to enquire into the truth of the information on which he takes action, and it is only if upon such enquiry it is proved that it is necessary to take the bond from the person in respect of whom the enquiry has been made, that he can be ordered to execute a bond. Obviously the statement of the Sub-Inspector of Police established nothing against the petitioner. In this respect the case is on all fours with *In the matter of Rajendro Kishore Roy Chowdhry* (2), where it was held that a report of an Inspector of Police and the evidence given by the same Inspector were not sufficient to justify an order binding down a person to keep the peace.

For the reasons given I allow this revision and cancel the bond of the petitioner.

N. F. E.

Revision accepted.

(1) 27 P. R. (Cr.) 1917.

(2) (1888) 10 W. R. 55.

1928

UJAGAR SINGH

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