

REVISIONAL CRIMINAL.

Before Harrison J.

HAYAT KHAN AND ANOTHER, Petitioners

versus

THE CROWN, Respondent.

Criminal Revision No. 451 of 1931.

*Criminal Procedure Code, Act V of 1898, section 106—
Accused convicted under section 324, Indian Penal Code—and
bound down to give security for keeping peace—legality of
the order—without formal finding that the conviction in-
volves breach of peace.*

The accused, having been convicted of an offence under section 324 of the Penal Code and fined, were ordered to furnish bonds under section 106, Criminal Procedure Code. On revision of this order it was urged that there should have been an inquiry and a judicial finding that the offence which has been the subject of the trial involved a breach of the peace and public tranquillity.

Held, that as an offence under section 324 of the Penal Code involves a breach of the peace, it was immaterial whether the Magistrate gave a formal finding to this effect or not.

Abdulla v. Crown (1), and *King-Emperor v. Ramanuj* (2), relied upon.

Mohammad Rahim v. Emperor (3), *Atma Ram v. Emperor* (4), and *Rafatulla Paramanik v. Rajek Sardar* (5), not followed.

Case reported by Mr. C. King; District Magistrate, Attock, with his No. 2018-E., dated 6th April 1931.

Nemo, for Petitioners.

MUHAMMAD AKBAR KHAN, for Government Advocate, for Respondent.

(1) (1921) I. L. R. 2 Lah. 279.

(3) (1925) 89 I. C. 1025.

(2) 1927 A. I. R. (Oudh) 101.

(4) 1927 A. I. R. (All.) 157.

(5) 1930 A. I. R. (Cal.) 646.

The accused on conviction by *Khan Bahadur Malik* Muhammad Amin Khan, exercising the powers of a Magistrate of the 1st Class in the Attock District, were sentenced, by order, dated the 26th January, 1931, under section 324, Indian Penal Code and fined Rs. 40 each or 3 months' rigorous imprisonment in default and bound down to execute bonds in Rs. 200 each with one surety for one year under section 106, Criminal Procedure Code. There was no finding in so many words that the commission of an offence under section 324 constitutes a breach of the peace. The case was forwarded to the High Court on the revision side.

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Order of the High Court.

HARRISON J.—As laid down in *Abdulla v. Crown* (1), it is necessary that the accused should have been convicted of the offence of criminal intimidation or an offence involving a breach of peace before he can be put on security under section 106. Here the accused committed an offence under section 324. This obviously involved a breach of peace and it was immaterial whether the Magistrate gave a formal finding to this effect or not. I follow our own ruling and *King-Emperor v. Ramanuj* (2), and dismiss the application for revision which curiously enough is supported by counsel for the Crown.

HARRISON J.

A. N. C.

Application dismissed.

(1) (1921) I. L. R. 2 Lah. 279. (2) 1927 A. I. R. (Oudh) 101.