

This judgment, however, does not help the assessee in the least, inasmuch as no principles laid down there have been violated in this case. On the grounds stated above we answer this question too in the affirmative.

In the circumstances of the case, however, we leave the parties to bear their own costs before us.

A. N. K.

REVISIONAL CRIMINAL.

Before Din Mohammad J.

ISLAM-UD-DIN *alias* ISLAMAN—Petitioner,

versus

THE CROWN—Respondent.

Criminal Revision No. 1355 of 1938.

Criminal Procedure Code (Act V of 1898), SS. 110 and 118 — Security for good behaviour from habitual offenders — necessary requirements before order can be passed.

Held, that an order under s. 110 read with s. 118 of the Code of Criminal Procedure cannot be made on vague allegations. Unless a man is proved by habit a robber, house-breaker, thief or forger or by habit a receiver of stolen property, etc., this drastic measure cannot be taken against him.

And if, in a case like the present, the prosecution witnesses themselves admit that in all cases in which the person proceeded against was sent up, he was either discharged or acquitted, it cannot be urged that the requirements of s. 110 are satisfied.

Kundan v. The Crown (1) and *Kehr Singh v. The Crown* (2) followed.

Sohan Singh v. Emperor (3) and *Jogendra Kumar Nag v. Emperor* (4), relied upon.

(1) I. L. R. (1928) 9 Lah. 133.

(2) I. L. R. (1928) 9 Lah. 586.

(3) 1926 A. I. R. (Lah.) 45.

(4) (1920) 57 I. C. 940.

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MUBARAK ALI
v.
THE COMMISSIONER OF
INCOME-TAX,
LAHORE.

1938

Nov. 2.

1938
 ISLAM-UD-DIN
 alias
 ISLAMAMAN
 v.
 THE CROWN.

Revision from the order of K. S. Khwaja Abdul Majid, District Magistrate, Karnal, dated 14th May, 1938, affirming that of Mr. P. S. Multani, Magistrate, 1st Class, Karnal, dated 25th March, 1938, binding the accused (Petitioner) under Section 110, Criminal Procedure Code, for good behaviour, for a sum of Rs.1,000 or in default to undergo simple imprisonment for a period of one year.

R. C. SONI, for Petitioner.

MOHAMMAD MONIR, Assistant to the Advocate-General, for Respondent.

JUDGMENT.

DIN
 MOHAMMAD J.

DIN MUHAMMAD J.—The petitioner was called upon by a Magistrate, 1st class, to execute a bond under section 110, Criminal Procedure Code, and his appeal to the District Magistrate failed.

Counsel for the petitioner contends that this order is not legally maintainable inasmuch as the only allegation made against the petitioner is that he has been suspected in several cases of having committed offences against property and that that evidence is insufficient. In support of his contention he has relied on *Kundan v. The Crown* (1), *Kehr Singh v. The Crown* (2), *Sohan Singh v. Emperor* (3) and *Jogendra Kumar Nag v. Emperor* (4).

In *Kundan v. The Crown* (1), Addison J. observed: "Mere suspicion of complicity in this or that isolated offence is not evidence of general reputation," and in *Kehr Singh v. The Crown* (2) he re-affirmed this principle.

In *Sohan Singh v. Emperor* (3), Fforde J. remarked that it was not enough merely to assert that

(1) I. L. R. (1928) 9 Lah. 133.

(2) I. L. R. (1928) 9 Lah. 586.

(3) 1926 A. I. R. (Lah.) 45.

(4) (1920) 57 I. C. 940.

the person proceeded against was a person of criminal tendencies or that he was suspected of having committed certain crimes.

In *Jogendra Kumar Nag v. Emperor* (1), a Division Bench of the Calcutta High Court held that the existence of history sheets kept by the police of persons proceeded against under section 110, Criminal Procedure Code, could not be taken into consideration by the Court.

Apart from authority, to my mind, an order under section 110 read with section 118 of the Code of Criminal Procedure, cannot be made on vague allegations, otherwise none would be safe. Unless the requirements of section 110 are fulfilled or, in other words, a man is proved by habit a robber, house-breaker, thief or forger or by habit a receiver of stolen property, etc., this drastic measure cannot be taken against him and, if, in a case like the present, the prosecution witnesses themselves admit that in all cases in which the person proceeded against was sent up, he was either discharged or acquitted, it cannot be urged that the requirements of section 110, Criminal Procedure Code, are satisfied.

Besides, as against the twenty witnesses examined by the prosecution, some of whom are police officials, the petitioner has also examined twenty witnesses and barring *Lala Savitri Parshad*, Treasury Officer, Simla, who had been summoned merely to prove an order made by him dropping proclamation and attachment proceedings against the petitioner in a case pending before him, all the remaining witnesses, who are both respectable and independent, have deposed that the petitioner's character is reputed to be good.

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ISLAM-UD-DIN

alias

ISLAMAK

v.

THE CROWN.

DIN

MOHAMMAD I.

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ISLAM-UD-DIN
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DIN
MOHAMMAD J.

In these circumstances, the order made against the petitioner cannot be maintained. I accordingly accept the petition and set aside the order requiring the petitioner to execute a bond under section 110, Criminal Procedure Code.

A. K. C.

Petition accepted.