

Before Mr. Justice Glover and Mr. Justice Pontifex.

THE QUEEN *v.* ISREE PERSHAD SING.*

Power of a Magistrate—Recognizance to keep the peace.

1872
Nov. 13.

THE following case was submitted by the Sessions Judge of Gya for the opinion of the High Court:—

“The party (Isree Pershad Sing) was called upon by the summons to show cause why he should not be required to enter into his own recognizances to keep the peace for six months, the amount specified being Rs. 200. Subsequently, on appearing before the Magistrate, he was required to enter into his own recognizances to the amount of Rs. 4,000, and to find two sureties in Rs. 1,000 each, the period being at the same time extended to one year. It has been contended before me that the Magistrate was not authorized by law in either increasing the amount, altering the nature of the security, or extending the period for which it was required, but was bound to observe in all respects the wording of the summons. I should be glad to be favored with the opinion of the High Court upon the point.”

The judgment of the High Court was delivered by—

GLOVER, J.—We think that the Sessions Judge is correct in his view of the law, and that the Magistrate was not justified in increasing the amount of security and in demanding sureties on a summons which provided only for a recognizance of much smaller amount, and made no mention of sureties at all.

The order of the Magistrate, directing recognizances to the amount of Rs. 4,000, and sureties to that of Rs. 1,000, to be taken, is quashed. If the Magistrate still thinks that heavier security should be taken than that first determined upon, he should issue a fresh summons, setting forth the amount intended to be taken, so that the party concerned may have full opportunity of showing cause against the order, if he wishes to do so.

*Reference No. 132, dated the 3rd October 1872, from the Sessions Judge of Gya.
