

On the second ground, however, we think that the petitioner is entitled to an order in his favour. The District Magistrate attempts to justify his refusal to allow the accused to cross-examine the Inspector on the ground that, inasmuch as the witness had been summoned for the defence, although he was not called by the defence, he must be regarded as such witness, and therefore the accused could not cross-examine his own witness. Now, although the accused did obtain a process for the attendance of the Inspector, before the Inspector's appearance he asked the Court to countermand the order for his attendance, but the Court refused to do so, and when the witness attended, he (the accused) declined to examine him. Under such circumstances the Inspector cannot be regarded as a witness for the defence. He was thereupon examined by the Court clearly as a witness who, the Court itself thought, was necessary for the proper decision of the case, and in this matter the Court exercised its own discretion. The case must therefore be returned, in order that the proceedings may be resumed from this point by an opportunity given to the petitioner to cross-examine the Inspector, and then, after consideration of the entire evidence in the case, the Court will proceed to pass its final order.

1802
 MOHENDEO
 NATH
 DAS GUPTA
 C.
 EMPEROR.

Case remanded.

D. 8.

Before Mr. Justice Prinsep and Mr. Justice Stephen.

SARAT CHUNDER ROY

v.

BEPIN CHANDRA ROY.*

1902
 Jan. 21.

Security for keeping the peace—Magistrate appointed in the district—Limits of jurisdiction—Criminal Procedure Code (Act V of 1898) ss. 12 and 107.

A Magistrate appointed to act as a Magistrate in a district has, unless his powers have been restricted to a certain local area, jurisdiction over the entire district.

Held, therefore, where a Subdivisional Officer in a district instituted proceedings under s. 107 of the Criminal Procedure Code against a person in his subdivision and the District Magistrate transferred the case to the Court of a Deputy Magis-

* Criminal Revision No. 755 of 1901, against the order passed by P. C. Dutta, Esq., Deputy Magistrate of Rungpore, dated 31st July 1901.

1902

SARAT
CHUNDER
ROY

v.
BEPIN CHAN-
DRA ROY.

trate of the first class appointed to act in the district, holding his Court at the head-quarters of the district, that the Deputy Magistrate had jurisdiction to try the case or to institute fresh proceedings against that person.

IN this case, upon a report submitted by the Sub-Inspector of the Sundarganj thana, dated the 7th May 1901, the Subdivisional Magistrate of Gaibundha, a subdivision of the district of Rungpore, instituted proceedings under s. 107 of the Criminal Procedure Code for the purpose of binding down the petitioner, Sarat Chunder Roy, to keep the peace. Upon objection being taken to his trying the case, it was, under the orders of the District Magistrate, transferred to a Deputy Magistrate holding his Court at the head-quarters of the district of Rungpore. Objection was then raised before the Deputy Magistrate that the original order instituting the proceedings was bad, inasmuch as it did not give sufficient notice to the parties of the substance of the information upon which the Subdivisional Magistrate had acted. Thereupon the Deputy Magistrate on the 31st July 1901 amended the proceedings by drawing up fresh proceedings, citing the substance of the information in full, but still relying upon the same information upon which the Subdivisional Magistrate had proceeded.

Mr. Swinhoe and Babu Harendra Nath Mukerjee for the petitioner.

PRINSEP and STEPHEN JJ. The objection taken in this case on which a Rule was granted is represented to us as being this. The Subdivisional Magistrate instituted proceedings under s. 107 of the Criminal Procedure Code for the purpose of binding the petitioner down to keep the peace. Objection was taken to his trying the case, and consequently it was, under the orders of the District Magistrate, transferred to a Magistrate not in the subdivision, but holding his Court at the head-quarters of the district. When the case was taken up before this Magistrate objection was raised that the original order instituting the proceedings was bad, inasmuch as it did not give sufficient notice to the parties of the substance of the information upon which the Subdivisional Magistrate had acted. The Magistrate, out of consideration for the parties, amended the proceedings by

drawing up a fresh proceeding, citing the substance of the information in full, but still relying upon the same information upon which the Subdivisional Magistrate had proceeded. It has been objected that this was a fresh proceeding which the Magistrate had no jurisdiction to make, inasmuch as the matter was within the jurisdiction of the Subdivisional Magistrate, and, we understand, that it was on this ground that the Rule was granted.

The Code of Criminal Procedure as amended by the Act of 1898, however, distinctly provides for such a case. S. 12 empowers the Local Government to appoint certain persons to be Magistrates of certain classes in a district, and it enables such Government to define the local areas within which such Magistrates may exercise all or any of the powers with which they may be invested. Sub-section (2) declares that, except as otherwise provided by such definition, that is, without an order restricting the power of any Magistrate appointed by the Local Government, "the jurisdiction and powers of such persons shall extend throughout such district." Consequently, unless the powers of this Magistrate had been restricted to a certain local area, he had jurisdiction over the entire district. We have examined the *Calcutta Gazette* in which the appointment of this Magistrate was notified, and we can find no such restriction. Under such circumstances the Deputy Magistrate had jurisdiction over the entire district and had jurisdiction to institute this proceeding, if it were necessary to consider this as a fresh proceeding, which is doubtful. At all events, the objection fails and the Rule must be discharged.

Rule discharged.

D. S.

1902

SARAT
CHUNDER
ROY

v.
BEPIN CHAN-
DRA ROY.