

The State vs Raja Ram And Ors. on 17 April, 1951

Equivalent citations: AIR1953ALL619, AIR 1953 ALLAHABAD 619

ORDER

Misra, J.

1. This is a criminal reference under Section 538, Criminal P. C., by the learned Sessions Judge, Bara Banki. The case arises out of an application under Section 514, Criminal P. C. for forfeiture of the security bonds executed by the opposite parties. Raja Ram, Ramanand and Sheoraj Ball. The bonds were executed in pursuance of an order of the learned Sub-Divisional Magistrate, Haidargarh, district Bara Banki dated 6-8-1947, in proceedings under Section 107, Criminal P. C. The finding of the learned Magistrate was that on account of the strained relations between the aforementioned persons and one Ram Dayal, there was an apprehension of a breach of the peace and it was necessary to bind them down for the period of one year. The bonds were duly executed on 6-8-1947.

2. Ram Dayal invoked the jurisdiction of the Sub-Divisional Magistrate, Haidargarh, under Section 514, Criminal P. C. on 10-8-1948, because Raja Ram, Ramanand and Sheoraj Ball were tried and convicted of offences under Sections 323 and 325, Penal Code committed during the currency of the bonds at village Tandpurwa, police station Safdarganj, tahsil Ramsanehil. The place where the incident leading to their conviction occurred was outside the jurisdiction of the learned Sub-Divisional Magistrate, Haidargarh and Ram Dayal's application was, therefore, rejected.

3. The learned Sessions Judge is of the opinion that the Magistrate concerned was competent to forfeit the bonds of the opposite parties in spite of the fact that the breach of the peace complained of occurred elsewhere than within his jurisdiction.

4. Section 514, Criminal P. C. clearly provides that when a bond has been taken by a Court, it is that Court alone or the Court of a Presidency Magistrate or of a Magistrate of the first class that can determine whether or not the bonds had been forfeited. Section 121, Criminal P. C. lays down the terms in which the bonds have to be executed. The section provides that bonds by person with respect to whom an order requiring security is made under Section 106 or Section 118 shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case, the commission or the attempt to commit or the abetment of any offence punishable with imprisonment wherever it may be committed is a breach of the bond. A bond for good behaviour is thus forfeited by the commission of 'any offence' 'wherever it may be committed' but in cases where security is taken and bonds are executed under Section 107, Criminal P. C. to ensure that a particular person shall keep the peace the position is otherwise, for there the bond can be forfeited on the commission of an act involving a breach of the peace within the jurisdiction of the Magistrate taking the bond, and no Magistrate other than the one who passed the order under Section 107 can act under Section

514, Criminal P. C. in order to effect a forfeiture. This is because the terms of the bond under Section 107, Criminal P. C. are wholly different from the terms of the bonds taken from persons under Section 110, Criminal P. C. The learned Sessions Judge thinks that in so far as the bonds do not restrict the executants from committing a breach of the peace within the territorial jurisdiction of the Magistrate who passed the initial order, an offence committed anywhere would amount to a breach. This view is contrary to the scope and intention of Section 514 read with Section 121, Criminal P. C.

5. The learned Magistrate was in my opinion justified in refusing to act under Section 514, Criminal P. C. I, therefore, reject the reference.