

(1879) 08 AHC CK 0009

Allahabad High Court

Case No: None

Empress of India

APPELLANT

Vs

Raghubar and Others

RESPONDENT

Date of Decision: Aug. 9, 1879

Citation: (1880) ILR (All) 352

Hon'ble Judges: Straight, J

Bench: Single Bench

Judgement

Straight, J.

The point here is whether upon a conviction under Sections 503 and 506 of the Penal Code, the accused person can be called upon, u/s 489 of the Criminal Procedure Code, to find recognizances with or without sureties to keep the peace. The defendants in the present case were convicted by the Magistrate of intimidating the complainant by threatening to bring false charges against him, and the question seems to be whether the words "taking other unlawful measures with the evident intention of committing a breach of the peace" can be said to include an offence of this kind. I do not think that the operation of Section 489 is limited to riot, assault, actual breach of the peace, or abetting the same, or unlawful assembly, but that it is intended to comprehend a wider range of offences, and it must be for the Magistrate or Court to decide in each case whether, from the nature of the charge upon which conviction takes place, there has been direct force or violence to the person, or conduct inducing an apprehension of force or violence, or a direct threat of force or violence, or a provocation to the commission of force or violence. Intimidation, for example, as in the present case, may have none of these elements about it. The threats used here are "to make charges" against the complainant, and involve no suggestion of personal physical injury, but one can readily understand the possibility of a case of intimidation arising in which there might be the strongest indication of an evident intention to commit a breach of the peace. As far as I have been able to ascertain there are only three cases bearing upon the point, two of these decided by the Calcutta High Court 7 W.R. Cr. 14, and 20 W.R. Cri. 37

upholding the taking of recognizances on conviction for criminal trespass, and a decision of the Full Bench of this Court in the matter of Chamru, decided 8th December 1876 (unreported). See two other cases, Queen v. Bachu H.C.R. N.W.P. 1875 and Queen v. Kunhiya H.C.R. N.W.P. 1872 . These bear out the view I have expressed, and though I think in the present instance that the Magistrate was wrong in requiring recognizances, because there is nothing about the conduct of the accused threatening the peace, the mistake he has fallen into is perfectly excusable. The recognizances of the defendants must therefore be discharged.