(1920) 01 AHC CK 0042

Allahabad High Court

Case No: None

Jagdat Tewari and Others		APPELLANT
	Vs	
Emperor		RESPONDENT

Date of Decision: Jan. 2, 1920

Citation: AIR 1920 All 29 : 54 Ind. Cas. 784

Hon'ble Judges: Walsh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Walsh, J.

In the face of the authorities I must allow this'' revision and set aside the order against .these four people for giving bonds in Rs. 500 with two sureties. The law is quite clear that the Magistrate must have evidence upon the record that they are persons likely to commit a breach of the peace. It would be better that he should do so even though the accused were prepared to admit that they were likely to cause a breach of the peace. But in any case the consent given in this matter is really no consent at all. To entitle the Magistrate to act upon consent in such a case as this he must, if it is open to him to act upon oonsent at all, obtain a full admission from eaoh of the persons oalled upon to show cause that he is likely to commit a breach of the peace, and the circumstances under which or reasons why he is likely to commit a breach of the peace, and that he fully understands that it is for that reason that he is to be bound over and that if he fails to find the sureties, he may have to go to prison. An admission of that kind clearly made by a person who has to show cause becomes evidence in the case, and there would be on the record some fact at any rate tending to show that the persons against whom the order is proposed to be made are likely to commit a breach of the peace. But having regard to the authorities I think it would always be better that the Magistrate should have the facts established by independent testimony on oath, which ought not to be difficult if he has already been furnished with grounds for beginning the proceedings at all. I

allow the application and send the case back to the Magistrate to be dealt with according to law.