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**(1912) 07 BOM CK 0025**

**Bombay High Court**

**Case No:** None

Kisan Kevji

APPELLANT

Vs

Emperor

RESPONDENT

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**Date of Decision:** July 11, 1912

**Acts Referred:**

- Criminal Procedure Code, 1898 (CrPC) - Section 110

**Citation:** 17 Ind. Cas. 60

**Hon'ble Judges:** N.G. Chandavarkar, Acting C.J.; Batchelor, J

**Bench:** Division Bench

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### **Judgement**

1. The proceedings in this case were initiated u/s 110 of the Code of Criminal Procedure and the Magistrate who initiated them ought to have disposed of them himself; but instead of doing so, he sent up the case to the District Magistrate for action under Regulation XII of 1827. That he had no jurisdiction to do. The Code requires that he should pass the final order himself, either discharging or taking security from the accused.

2. The District Magistrate, to whom the case was sent up by the first class Magistrate, assumed jurisdiction under Regulation XII of 1827 and has passed an order placing certain restrictions<sup>1</sup> upon the personal liberty of the petitioners.

3. Whether, if the District Magistrate had passed such an order independently of the proceedings u/s 110, it would have been legal is not the question before us now. But the proceeding having been initiated u/s 110, the Magistrate before whom it was initiated ought to, have himself disposed of it. The District Magistrate had no jurisdiction to dispose of it.

4. On this ground, the District Magistrate's order must be quashed and the proceedings sent back to the Magistrate, first class, to be dealt with and disposed of according to law.

<sup>1</sup>The District Magistrate"s order against the accused was to the following effect:

Whereas in the interests of the public peace and order it is desirable to keep a watch over your movements, the following instructions are hereby issued to you:

(a) You are required to attend the roll-call once in the morning and once in the night at the Police Chowri Borad before the Police Patil and should not leave your house after sunset and before sunrise.

(b) You are forbidden to leave the limits of your village without the permission in writing of the Police Patil of your village. Such permission shall state the period for which you intend to absent yourself from your village and the place you propose to visit and the purpose of your visit.

(c) And you are hereby warned that in the event of your failing at any time to comply with any order given above, or if you absent yourself from your village beyond the period covered by the permission granted under Clause (b), or if you are found in any town or village other than which you are permitted to visit, you render yourself liable to be punished with simple imprisonment for a period not exceeding six months.