

P L D 1988 Lahore 336

Before Fazal Karim, J

WAQARUL HAQ alias MITHOO and another- -Petitioners

versus

THE STATE—Respondent

Criminal Revision No.210 of 1986, decided on 27th March, 1998

(a) Criminal Procedure Code (V of 1898)--

S.63(3) & 173(3)--Police 'Rules, 1934, R.24.7--Word 'discharge' used in both the sections has been used in different senses in the two contexts' and in S.63, Cr.P.C. it has been used in the sense of releasing the person arrested.

(b) Criminal Procedure Code (V of 1898)-

Ss.173, 435 & 439--Order of Magistrate under S-173, 'Cr.P.C. for cancellation of F.I.R. is an administrative order- -Magistrate making such an order is not an inferior criminal Court within the meaning of Ss.435 & 439, Cr.P.C. and such orders passed by him are not revisable under Ss.435 439, Cr.P.C.

Wazir The State P L D 1962 (W.P.) Lah. 405 and Bahadur and another v. The State P L D 1985 S C 62 ref.

(c) Criminal. Procedure Code (V of 1898)--

S.173(3)--Nature of order of Magistrate under S. 173(3) ---Names of persons despite the order of the Magistrate discharging them placed in column No.2 of the Challan--Trial Judge, held, acted within his jurisdiction in summoning such persons to stand their trial--Making' of an order under S.173(3), Cr.P.C. could not affect the jurisdiction of the Trial Court for, such an order was an administrative order --Not. necessary for Trial Judge to record some evidence for summoning persons whose names appear in Column No.2 of the Challan.

Bahadur and another v. The State P L D 1985 S C 62 fol.

Wazir v. The State P L D 1962 (W.P.) Lah. 405; Bahadur and another v. The State P L D 1985 S C 62; Raja Khushbukhtur Rehman and another v. The State 1985.'S C M R 1314; Mehar Khan v. Yaqub Khan 1981 S C M R 267; Bashir Ahmad v. Illaqa Magistrate, Jaranwala and 4 others P L D 1980 Lah.28; Syed Hamid Muqeem Bokhary v. The State P L D 1985 Lah.71; Muhammad Ibrahim and others v. Qudrat Ullah Ruddy and others P L D 1986 Lah.256 ref.

Sahibzada Farooq Ali Khan and Altaf Ibrahim Qureshi for Petitioners.

Agha Khurram for the State.

Muhammad Akram Sheikh for the Complainant.

Date of hearing: 6(h March, 1988.