

SUPREME COURT.

U KYU (APPLICANT)

v.

THE COMMISSIONER OF POLICE, RANGOON
(RESPONDENT).*† S.C.
1948

Nov. 16.

Public Order (Preservation) Act, 1947—Alleged informer in connection with dacoity—Proper course to be taken by police.

The allegation for detention was that the *détenu* acted as informer in connection with a dacoity.

Held: Where offence under Penal Code is alleged, authorities should prepare a charge sheet and send up the accused for trial. Under such circumstances Public Order (Preservation) Act should not be resorted to.

Ba Sein (for Attorney-General) for the respondent.

The judgment of the Court was delivered by

SIR BA U, C.J.—This application must be allowed.

We regret to note that the Public Order (Preservation) Act, 1947, has been misused in connection with offences under the Penal Code, which the authorities concerned cannot in any way substantiate. The allegation for which the *détenu* was arrested and has been kept under detention is that he acted as an informer (*let-tauk*) in connection with the dacoity in the house of one Mr. Nanjee of Kamayut some months ago. If that be the allegation—and it is the allegation as stated by the Police Station Officer who effected the arrest—then we are clearly of the opinion that what the police authorities should have done was to prepare a charge sheet and send the man up for trial; but instead they have resorted to the Public Order (Preservation) Act, which should not have been done.

We accordingly direct the release of the applicant's son Maung Tun Kyi forthwith.

* Criminal Misc. Application No. 49 of 1948.

† Before SIR BA U, Chief Justice of the Union of Burma, MR. JUSTICE E MAUNG and MR. JUSTICE KYAW MYINT.