

(1921) 05 AHC CK 0015

Allahabad High Court

Case No: None

Bindraban and Others

APPELLANT

Vs

Emperor

RESPONDENT

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**Date of Decision:** May 20, 1921**Citation:** 63 Ind. Cas. 829**Hon'ble Judges:** Stuart, J**Bench:** Single Bench

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### Judgement

Stuart, J.

The learned Sessions Judge has not made the facts very clear in his Order of Reference. On the evidence there are two parties in the village, one the party of Kunwar Singh and Mahtab Singh and the other the party of the applicants accused. I consider that the evidence on the record is amply sufficient to establish that these two parties, who are on the very worst of terms and have fought with each other on several occasions, are likely to fight with each other again. I do not agree with the learned Sessions Judge that there is no evidence to show that the dispute will end in a breach of the peace, I think there is every reason to suppose that the dispute may possibly end in a very serious riot, But the Magistrate's order is open to objection on grounds which have, not been taken by the Sessions Judge, As far as I can see the party of Kunwar Singh and Mahtab Singh is as dangerous as the party of the accused, I fail to see what advantage will be gained by binding over the party of the accused, when the party of Kunwar Singh and Mahtab Singh are left alone. This was clearly a case where both parties ought to have been bound over. Secondly, I notice from the order that these men, being unable to find security, have been sent to prison. They are landed proprietors and in those circumstances their personal security should have been sufficient. I certainly do not consider that they ought to be imprisoned. I, therefore, set aside the proceedings and direct that the bond be cancelled. But this will not prevent the Sub-Divisional Magistrate taking fresh proceedings against both the parties, if he thinks fit to do so. He certainly should not bind over one party without binding over the other. It also Should not be necessary

in a case like this to place the securities at a figure that the partial are unable to find.