

(1918) 09 AHC CK 0004

Allahabad High Court

Case No: None

Ghulam Jilani and Others

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: Sept. 4, 1918

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 109

Citation: AIR 1919 All 260 : 51 Ind. Cas. 161

Hon'ble Judges: Tudball, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Tudball, J.

This is an application in revision in respect to an order passed by the District Magistrate of Meerut on an appeal preferred from an order of a Magistrate of the First Class calling upon the applicants to provide security to be of good behaviour in a matter which arose u/s 109 of the Criminal Procedure Code. As the judgments of the Joint Magistrate and the District Magistrate show, the three present appellants were met at night time in the company of two other persons on the road at Meerut between Meerut City and the railway station. It appears that the Police had received certain information to the effect that men of bad character were about to commit a raid upon the town. They made preparations to counteract this and on the night in question they received information that the proposed raid had been postponed. The three present applicants were met by a party of Police that same night on the road as mentioned above. Apparently on the ground somewhere close to them a burglar's jemmy was found. The applicants gave an explanation of themselves and as a matter of fact, it has been established that they are well to-do and respectable residents of the City of Delhi. The other two persons who also were met are also reported by the Police at Delhi to be persons of decent character. In spite of this information the District Magistrate has up-held the order of the Joint Magistrate,

Section 109 enables the Magistrates mentioned therein to call upon certain persons to show cause why they should not be ordered to furnish security for good behaviour. The persons contemplated in the section are persons taking precautions to conceal their presence within the local limits of such Magistrate's jurisdiction or persons who have no ostensible means of subsistence and who cannot give a satisfactory account of themselves. The present applicants clearly do not come within Clause (a), as it was not alleged that they were taking precautions to conceal their presence with a view to committing an offence. They could only have come in under Clause (b) as persons who could not give a satisfactory account of themselves, But as the District Magistrate's judgment on appeal shows, the account they gave of themselves was correct and the Police of Delhi have reported that these three present applicants are persons who are well to do and of good character. In these circumstances I do not think that Section 109 can apply to them and that the order passed has been passed more on suspicion than on any good basis of fact. I, therefore, allow the application and set aside the order of the Joint Magistrate, dated the 31st of January 1918. The security bonds, if furnished, will be discharged.