

Jafar Ali Howladar Vs Emperor

Court: Calcutta High Court

Date of Decision: Feb. 2, 1910

Acts Referred: Criminal Procedure Code, 1898 (CrPC) â€” Section 118

Citation: 6 Ind. Cas. 668

Hon'ble Judges: Stephen, J; Carnduff, J

Bench: Division Bench

Judgement

1. This is a rule calling on the District Magistrate to show cause why the securities offered by the petitioner should not be accepted. The petitioner

has been ordered to be bound down u/s 118, Criminal Procedure Code, and to find sureties for Rs. 2,500, the sureties being of such number not

exceeding five as he may see fit. He has found five sureties all of whom are of sufficient substance to be able to pay Rs. 2,500, but who are not in

the opinion of the Magistrate in a position to control the petitioner sufficiently to ensure his good behaviour in future.

2. The question is whether the grounds on which these sureties have been refused by the Magistrate are sufficient. In our opinion they are not.

Considering the judgments of this Court in the cases of Ram Pershad v. King-Emperor 6 C.W.N. 593 and Adam Sheikh v. Emperor 35 C. 400 :

7 Cr. L.J. 439, it seems to be plain that the first matter to be enquired into is the ability of the sureties to pay the sums for which they become

bound in case of default of persons who are bound down. Beyond this, as is shown in the judgment in the matter of Jalil v. Emperor 13 C.W.N. 80

: 4 Ind. Cas. 560 : 8 C.L.J. 243 : 8 Cr. L.J. 388, there may be other matters to be considered which would be taken as objections to the sureties,

as for example, if one of a gang of thieves is offered as a surety for another. There may also be other objections to a man becoming a surety

although he is pecuniarily fit for the position, but these it is not possible to specify and such an objection must be dealt with in each case as it arises.

In the present case the sureties being competent from the pecuniary point of view and no other cause of unfitness being shown, we think that they

ought to be accepted.

3. Under these circumstances the rule is made absolute and we order that the securities originally offered by the petitioner be accepted.