

Mohammad Rafi Vs. Emperor

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Court : Allahabad

Decided On : Sep-20-1943

Reported in : AIR1943All369

Appellant : Mohammad Rafi

Respondent : Emperor

Judgement :

ORDER

Plowden, J.

1. This is an application from the judgment of the Sessions Judge of Meerut, dated 12th May 1943. I have dealt with Section 109(a), Criminal P. C., in Criminal Rev. No. Abdul Ghafoor v. Emperor : AIR1943 All367 . Rather a difficult and unusual point remains as in this case where the applicant is said to have been accompanied in Meerut city by another man, named Abid Husain about midnight and both ran away on hearing the police coming and concealed themselves behind an abachak. On being caught, the applicant was found with an implement of house breaking. Can it be said that he was taking precautions to conceal himself with a view to committing an offence or merely to escape arrest? It is certain that if nothing had been found on him he could not have been ordered to give security under Section 109(a). A person cannot be bound down under this clause merely because he is afraid of arrest or because he is making a nuisance

of himself e. g., shouting or singing and conceals himself to avoid arrest. But, in my opinion, he can be bound down if the evidence shows that before running away and before being caught concealing himself, there is reason to believe that he was about to commit an offence. It would appear rather doubtful whether the words 'taking precautions to conceal himself' will bear such a meaning but that phrase is, in my opinion, wide enough to include the case of anyone who is presumably about to commit an offence, who is unexpectedly startled and who then conceals himself to prevent arrest; the whole object of this clause being to prevent the commission of particular offence. With the alteration that the amount of bond and security is reduced to Rs. 100 the application is dismissed.

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