

**Mula Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/470039](http://sooperkanoon.com/470039)

**Court :** Allahabad

**Decided On :** Nov-28-1918

**Reported in :** AIR1919All159; 49Ind.Cas.98

**Judge :** Tudball, J.

**Appellant :** Mula

**Respondent :** Emperor

**Judgement :**

**Tudball, J.**

1. The facts of this case are simple. Mula on the 1st of August 1918 gave information to a Police Officer that certain persons had committed theft of his property. On the 3rd of August 1918 he-made a - complaint to a Magistrate to the same effect. The Police in their enquiry came to the conclusion that the information Mula had given to them was false. The Magistrate before whom the complaint was made called upon the Police for a report. The Police reported that the, complaint was false. Mula asked for an opportunity to produce his evidence. The Court allowed him to produce his witnesses without summoning the accused. After examining his witnesses the Magistrate fixed a date and issued summons to the accused to appear. On the date fixed Mula and his witnesses did not appear. The Magistrate having no evidence against the accused discharged him. Thereupon the Police Officer to whom the false information was given laid a

complaint and preferred a charge under Section 182 against Mula. This was sent to a Magistrate of the Second Class to try. He came to the conclusion that from the facts above stated Mula was triable only for an offence under Section 211 of the Indian Penal Code and not under Section 182 and that he had no power to try such an offence. He returned the record, which went to the District Magistrate. The District Magistrate returned the record to him, pointing out that the offence of which a complaint was made was under Section 182 and that he was bound to try it. The present application is made in revision against this order. In my opinion the District Magistrate's order is correct. The bare fact that Mula subsequently made a complaint to a ' Magistrate and then dropped the proceedings is no bar to the Police Officer, to whom the false information was given, making a complaint of an offence under Section 182 of the Indian Penal Code. It is urged that the first part of Section 210 covers the offence-of which a complaint has been made. This may or may not be correct, but one thing is certain and that is that Section 182 does cover the case if the information given to the Police Officer was false. My attention has been called to the decision in *Hardwar Pal v. Emperor* 16 Ind. Cas. 510 : 31 A. 522 : 10 A.L.J. 61 : 13 Cr.L.J. 702. The opinion which I expressed in the course of that judgment is by no means in the applicant's favour. Attention is also called to the decision in *Brown F. A. v. Ananda Lal Mullick* 36 Ind. Cas. 857 : 20 C.W.N. 1317 : 25 C.L.J. 69 : 18 Cr.L.J. 26 : 44 C. 650. Even the decision in that case does not help the applicant. At one place the Court remarked: 'If Ananda Lal Mullick had based his charge on Section 182 of the Indian Penal Code which he might have done, the sanction of the Police Officer to whom the alleged false charge was made or the sanction of some public servant to whom he was subordinate would have been necessary.' In the present case there is no question of any sanction. It is the public officer concerned who has made the complaint. He, like any ordinary member of the public, is entitled to have his complaint heard. It is a complaint; of an offence under Section 182 of the Code, to which Section 195, Clause (a), of the Criminal Procedure Code applies. Clause (5) of that section has nothing to do with the present case. In my opinion there is no force in this application. It is, therefore, rejected. The proceedings will be continued.