

**Mahu and ors. Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/476819](http://sooperkanoon.com/476819)

**Court :** Allahabad

**Decided On :** Feb-27-1918

**Reported in :** AIR1918All102(1); 44Ind.Cas.965

**Judge :** Henry Richards, C.J.

**Appellant :** Mahu and ors.

**Respondent :** Emperor

**Judgement :**

Henry Richards, C.J.

1. In this case the Magistrate has made an order under Section 107 against the applicants. It appears there is a cattle market at a certain place not very far from land which is owned by the applicants. The Magistrate had reason to think that the applicants intended to open a market upon their land for the sale of cattle. He thought, and I agree with him, that this circumstance would very likely cause a breach of the peace. What would most likely happen was that the owners of the older market would raise objection to the new market and that the applicants as owners of the land upon which the new market would be held would resist the action of the owners of the older market. The section, however, provides that where the Magistrate is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act which may occasion a breach of the peace or disturb the public tranquillity, the Magistrate

may then make the order. It is not pretended that the Magistrate was informed that any of the applicants intended to commit a breach of the peace. He was only informed that they intended to hold a market on their own land. If this act was wrongful act then the Magistrate would be entitled to act. But it is not contended that the act would be wrong. Under these circumstances I do not think that the order could legally be made. I accordingly allow the application and set aside the order of the Magistrate.

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