

Manna and ors. Vs. Emperor

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Court : Allahabad

Decided On : Aug-15-1917

Reported in : 42Ind.Cas.783

Judge : P. C. Banerjee, J.

Appellant : Manna and ors.

Respondent : Emperor

Judgement :

P. C. Banerjee, J.

1. The applicants were ordered to furnish security for good behaviour. They produced two sureties, but the sureties have been rejected by the learned Magistrate on the ground that they live at a distance from the village of the applicants. The Magistrate does not appear to have made any judicial enquiry as to the fitness of the sureties. The mere fact that they live at a distance is not by itself sufficient to disqualify the sureties. Of course, as remarked in the case of Queen-Empress v. Rahim Bakhsh 20 A. 206: A. W. N. (1898) 21: 9 Ind. Dce. (N. S.) 494, it is reasonable 'to expect and require that the sureties to be tendered should not be sureties from such a distance as would make it unlikely that they could exercise any control over the man for whom they were willing to stand surety.' In the present case the Magistrate does not express any opinion on the point noticed above and he has made no enquiry. I accordingly allow the

application, set aside the order of the Magistrate, rejecting the security offered and send back the case to him, with the direction that if after judicial enquiry he be of opinion that the two sureties offered are not, men who ought to be accepted as sureties, he should afford to the applicants reasonable opportunity to furnish other and suitable sureties. The record will be returned.

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