

**Ram Charan Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/478248](http://sooperkanoon.com/478248)

**Court :** Allahabad

**Decided On :** Dec-08-1925

**Reported in :** AIR1926All614; 92Ind.Cas.882

**Appellant :** Ram Charan

**Respondent :** Emperor

**Judgement :**

**Sulaiman, J.**

1. This is a criminal revision from an order dismissing an appeal in a Section 110 case. The accused, along with several other persons was tried, under Section 110 of the Criminal P.C. After the evidence of a number of prosecution witnesses including civil and military officers had been recorded, the accused was asked by the Magistrate why he should not be bound down. The reply of the accused was:

I have no objection. I shall furnish security. I have never been convicted before. I shall produce no defence evidence. I have no witnesses.

2. The Magistrate however examined more witnesses and did not take the statement to be a plea of guilty. He held on the evidence that a good case had been made out for an order under that section. The accused appealed to the Sessions Judge. The learned Sessions Judge dealing with the case of this particular applicant remarked as follows:

There is no force in the appeal of Ram Charan, Yadram and Bhabhuti inasmuch as all three of them expressed their willingness to furnish security for their good behaviour and produced no defence. This was tantamount to a plea of guilty after evidence of several witnesses had been recorded against the appellants. I dismiss the appeal of these three men.

3. It is apparent that the learned Judge having come to the conclusion that the statement of the accused persons amounted to a plea of guilty did not consider the appeal on its merits and did not examine the prosecution evidence and come to an independent conclusion of his own. The question raised in this revision is that the learned Judge was in error in treating the willingness of the accused to furnish security as amounting to a plea of guilty.

4. In cases arising under Section 107, Criminal P.C., it has been held a number of times that the Magistrate should hold an independent enquiry and should not act on the mere readiness of the accused to furnish security. I may only refer to the cases of *Mul Chand v. Emperor* AIR 1914 All 546, *Chancier Shekhar v. Emperor* AIR 1919 All 19 and *Jagdat Tewari v. Emperor* AIR 1920 All 29. In principle there is no distinction between trials under Section 107 and trials under Section 110. In either case it is the duty of the Magistrate to hold an enquiry of the offence and not to bind an accused person merely because he agrees to furnish security.

5. I find, however, that the Magistrate did hold an enquiry and did record evidence. All that has happened is that the appeal of the accused applicant has not been considered on its merits by the learned Sessions Judge. I cannot therefore interfere with the order of the trying Magistrate, but setting aside the order passed on appeal direct that the case be sent back to the Court of the learned Sessions Judge of Aligarh in order that it be restored to his original number on the file and be disposed of according to law. Case sent back.