

**Madan Mohan Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/684760](http://sooperkanoon.com/684760)

**Court :** Delhi

**Decided On :** Nov-28-1968

**Reported in :** 4(1968)DLT31

**Judge :** I.D. Dua, CJ.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 107

**Appeal No. :** Criminal Revision Appeal No. 453 of 1967

**Appellant :** Madan Mohan

**Respondent :** State

**Advocate for Pet/Ap. :** L.D. Arora, Adv

**Judgement :**

I.D. Dua, C.J.

(1) This case has been forwarded by the learned Additional Sessions judge, Delhi with a recommendation that the proceedings initiated against Madan Mohan under section 107, Code of Criminal Procedure, be quashed

(2) It appears that on receipt of same information that the petitioner Madan Mohan was keeping a Bengali girl at his residence 10-X, Chitter Gupta Road for purposes of immoral traffic, the D. S. P. Pahar Ganj organized a raid party and actually recovered a Bengali girl. named Rekha alias Shanti from the petitioner's house.

These facts according to the learned Additional Sessions Judge, do not make out any case for a breach of peace or disturbing the public tranquility, with the result that section 107, Code of Criminal Procedure, must be held to be inapplicable. Whether or not an offence under the Suppression of Immoral Traffic in Woman and Girls Act has been committed is a question with which I am not concerned in the present proceedings. The learned Public Prosecutor, as the order of the learned Additional Session:-, Judge shows, had nothing to say against the inapplicability of section 107, Criminal Procedure Code. In this Court also, no one has cared to appear for the State. Section 107, Criminal Procedure Code, it may be remembered, is a preventive provision intended to arm the authorities concerned to take effective steps for keeping peace. Without reliable evidence that a person is likely to commit a breach of the peace or disturb the public tranquility or to commit a wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, it is not open to a Magistrate to proceed under the above section, however, immoral or abnoxious to civilised and decent society, that person's conduct may amount to be. This rule of guidance draws its vitality from the recognised principle of our criminal jurisprudence penal action must be justified by some provision of law which is attracted beyond reasonable doubt in the facts established. To order security to be furnished is obviously a penal action in this respect. Security proceedings is a part of judicial process and therefore, attract a judicial approach, though in their initiation, administrative considerations do play a considerable part. But administrative considerations should not completely eclipse the judicial process. 1. however, must not be understood to lay down that running a brothel keeping a girl for immoral traffic may, as a matter of law, never attract section 107 Criminal Procedure Code, for, there may conceivably be cases where on the evidence this section would be attracted and action there under fully justified. The present does not stem to me to be such a case.

(3) Agreeing with the recommendation, therefore, I allow this revision and quash the proceedings section 107, Code of Criminal procedure, against Madan Mohan, petitioner.

