

**Munisami and ors. Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/816313](http://sooperkanoon.com/816313)

**Court :** Chennai

**Decided On :** Mar-24-1910

**Reported in :** 7Ind.Cas.416

**Judge :** Miller, J.

**Appellant :** Munisami and ors.

**Respondent :** Emperor

**Judgement :**

ORDER

**Miller, J.**

1. The finding, that the accused, other than the second, 'surrounded the constable in a threatening attitude', is not to my mind a sufficient finding that an assault was committed by them within the meaning of Section 351 of the Indian Penal Code. It is not suggested that the assault committed by the 2nd accused was constructively the offence of all.

2. As to the 2nd accused, I think on the facts found the conviction is right. The constable was in the execution of his duty at the time the blow was given. I set aside the conviction and sentence passed on the 1st, 3rd and 4th accused and confirm those passed on the 2nd accused.

