

Abdul Hamid and ors. Vs. Emperor

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Court : Kolkata

Decided On : Mar-28-1945

Reported in : AIR1948Cal107

Appellant : Abdul Hamid and ors.

Respondent : Emperor

Judgement :

ORDER

Henderson, J.

1. This is a Rule calling upon the District Magistrate of Mymensingh to show cause why an order calling upon the petitioners to execute bonds to be of good behaviour should not be set aside. Proceedings were drawn up against the first two petitioners and four others on a police report on 17-7-1943. Similar proceedings were drawn up against the third petitioner and one other much later on 11-12-1943. For reasons that are not at all apparent these two proceedings were tried together and one of the complaints made by the petitioners is that they have been prejudiced thereby.

2. The proceedings were drawn up on the usual lines and alleged that the petitioners were by habit thieves, robbers and burglars and men of so desperate and dangerous a character, that their being at large without security was hazardous to the community. The evidence was led on the usual lines and it is a

matter of common experience that in these cases the last allegation is nothing but padding.

3. The prosecution miserably failed to establish the main part of their case and the Magistrate was not satisfied that the petitioners were habitual thieves, robbers or burglars. He made an order against them, however, on the ground that they are of dangerous and desperate character.

4. The proceedings were laid before the learned Sessions Judge in due course. He held that these petitioners belong to a party led by Hamid against a man named Ramjan, who is admittedly a goonda and a leader of goondas. No specific incident was proved against the petitioners to suggest that they are dangerous and desperate men. The only thing which the learned Judge found against them was that they go about armed with lathis. He was not prepared to reject their explanation that they do so in order to prevent themselves from being injured by the goonda, Ramjan, and his party. It passes my comprehension how it can be said that persons who carry lathis in order to protect themselves from an attack by a gang of ruffians are desperate and dangerous men. Even if the proceeding had been drawn up under Section 107, this defence would be a complete answer.

5. The Rule is made absolute and I direct that the order made against the petitioners be set aside. Let the petitioners be discharged from their bail bonds.