

**(1921) 09 AHC CK 0002**

**Allahabad High Court**

**Case No:** None

Bissay

APPELLANT

Vs

Emperor

RESPONDENT

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**Date of Decision:** Sept. 24, 1921

**Citation:** AIR 1921 All 142 : 65 Ind. Cas. 556

**Hon'ble Judges:** Lindsay, J

**Bench:** Single Bench

**Final Decision:** Allowed

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### **Judgement**

Lindsay, J.

This application for revision must be accepted. It has been admitted on the ground put forward in the petition that the Magistrate who tried the case had wrongfully disposed of it without hearing the defence evidence of the applicant.

2. A perusal of the order sheet shows that the witnesses cited by the accused failed to appear in Court. Summonses and warrants were issued with the object of bringing these witnesses into Court, but neither were executed. The Magistrate seems to have got tired at last and proceeded to give judgment, remarking that it was the business of the accused to take suit-able steps to have his witnesses brought into Court.

3. It was the business of the Court to see that its summonses and warrants were duly executed, and if the accused insisted on the Court issuing process for the attendance of these witnesses he had done all that the law required of him. It was for the Court to do the rest. I, therefore, allow this application, set aside the conviction and sentence and send the case back to the Magistrate for disposal in accordance with law after hearing such witnesses as the accused may desire to call in his defence.