

Muhammad Khandu Sarkar Vs Sadak Ali Sheikh and Others

Court: Calcutta High Court

Date of Decision: March 1, 1923

Acts Referred: Criminal Procedure Code, 1898 (CrPC) â€” Section 145

Citation: AIR 1923 Cal 577 : 76 Ind. Cas. 963

Hon'ble Judges: Suhrawardy, J; Newbould, J

Bench: Division Bench

Judgement

1. This Rule is directed against an order passed by the Deputy Magistrate of Mymen singh u/s 145, Criminal Procedure Code. Though it appears

there was no absence of jurisdiction in the initiation of those proceedings, the Magistrate, when he found that there was actually no apprehension of

the breach of the peace, was bound to cancel the initial order and stay all further proceedings under clause 5 of Section 145, Criminal Procedure

Code. The apprehension of a breach of the peace is the first condition necessary to give the Magistrate jurisdiction under this Section, and if it is

found there is no longer any such apprehension the Magistrate's jurisdiction ceases. We accordingly make this Rule absolute and set aside the

order complained of u/s 145, Criminal Procedure Code.