

**(1923) 03 CAL CK 0001**

**Calcutta High Court**

**Case No:** None

Muhammad Khandu Sarkar

APPELLANT

Vs

Sadak Ali Sheikh and Others

RESPONDENT

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**Date of Decision:** March 1, 1923

**Acts Referred:**

- Criminal Procedure Code, 1898 (CrPC) - Section 145

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

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

**Bench:** Division Bench

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### **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.