

Company: Sol Infotech Pvt. Ltd. Website: www.courtkutchehry.com

Printed For:

Date: 21/11/2025

(1923) 03 CAL CK 0001

Calcutta High Court

Case No: None

Muhammad Khandu

Sarkar

APPELLANT

Vs

Sadak Ali Sheikh and

Others

RESPONDENT

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

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.