(1940) 08 CAL CK 0001

Calcutta High Court

Case No: Criminal Revision No. 707 of 1940

Girilal Mondal and Others		APPELLANT
	Vs	
Emperor		RESPONDENT

Date of Decision: Aug. 7, 1940

Final Decision: Allowed

Judgement

Edgley, J.

It is contended in this case that there was no compliance with the provisions of sec. 342 of the Code of Criminal Procedure. The material facts of the case are as follows: On the 5th of February, 1940, the prosecution wit-nesses were examined-in-chief and the case was adjourned to the 21st of February, 1940, for the cross-examination of these witnesses. On the latter date all the prosecution witnesses were examined and discharged and the Petitioners were examined under sec. 342 of the Code of Criminal Procedure. The Petitioners were then called upon to enter into the defence and the case was adjourned until the 4th of March, 1940. On that date the defence filed a petition in which they asked that three of the prosecution witnesses might be further cross-examined. The record shows that some further questions were put to these witnesses and they were then discharged. It is contended that after the further cross-examination of these three witnesses the Petitioners should have been examined again under sec. 342 of the Code of Criminal Procedure. In my view, it may perhaps be said that the learned Magistrate would have exercised a wise discretion if he had again examined the accused persons with reference to the further cross-examination of the three prosecution witnesses. At the same time, I do not think that there has been any non-compliance with the provisions of sec. 342 of the Code. The latter part of this section provides that the Magistrate shall question an accused person generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. The record shows that this was actually done on the 21st of February, 1940. The further cross-examination was allowed at the express request of the Petitioners and after they had been called on for their defence. It has not been shown that the Petitioners

were in any way prejudiced by the fact that no more questions were put to them after the cross-examination of the three prosecution witnesses and it has not been shown that these witnesses in their cross-examination made any statements prejudicial to the case of the defence upon which any further examination would have been at all material. In these circumstances this Rule must be discharged.