

**Rajendra Nath Ghosh and Others Vs Amrita Lal Chakarvarti
 Keshab Chandra Ghose Vs Kanai Lal Boiragi and Others**

Court: Calcutta High Court

Date of Decision: Jan. 25, 1923

Citation: 71 Ind. Cas. 697

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

Bench: Division Bench

Judgement

1. These two Rules have been obtained by persons who were informants in two rioting cases which apparently arose out of the same occurrence.

The Rule obtained by Keshab Chandra Ghosh is not pressed. That obtained by Rajendra Nath Ghosh was granted on two grounds. The first of

these is based on the allegation that the petitioner and four of his accused are prosecution witnesses in the counter-case and will be seriously

prejudiced in their defence if they are required to give evidence in that case before the trial of the case in which they are the accused. We are

unable to hold that this is a sufficient reason for staying the proceedings in the case in which they are witnesses. As is urged before us on behalf of

the Crown and as has been pointed out by the District Magistrate in his explanation, the recognition of this principle will create a deadlock in the

trial of cases where both parties have brought counter charges.

2. The second ground on which this Rule has been granted is, that after the disposal of the case against the petitioner it may not be necessary to try

the counter-case. The petitioner is not the prosecutor in the counter-case but the Crown, and it will not rest on him to decide whether the counter-

case will proceed or not. The Crown, who is interested in both the cases, has opposed these Rules, and we think no sufficient cause is shown

which would justify us in interfering with the discretion of the Trying Magistrate as to the order in which the cases should be taken up.

3. We accordingly discharge both these Rules.