

(1937) 05 CAL CK 0006**Calcutta High Court****Case No:** Criminal Rev. No. 180 of 1937

Jaladharr Bhattacharjya

APPELLANT

Vs

Subal Chandra Mahisya Das

RESPONDENT

Date of Decision: May 20, 1937**Judgement**

Jack, J.

This Rule was issued, calling upon the Deputy Commissioner of Sylhet and also upon the complainant Opposite Party to show cause why the conviction of the Petitioner and the sentence passed on him should not be set aside. The conviction was under secs. 25 and 26 of the Indian Ferries Act. He was fined RS 25 under each section. The case against the Petitioner is that he transported a wagon load of cement by boat from the ghat of the Public Ferry near the Railway goods shed to the town bank of the river Surma, using hired coolies. Under sec. 25 of the Indian Ferries Act every person crossing by any public ferry, or using the approach to, or landing place thereof, who refuses to pay the proper toll shall be punishable. Sec. 26 runs thus:-

Whoever establishes, maintains or works a ferry in contravention of the provisions of sec. 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred for every day during which the ferry is maintained or worked in contravention of those provisions.

Under the proviso to sec. 13 of the Act this section has no reference to the use of private boats. The evidence shows that the boat used in this case was a private boat belonging to the firm of which the Petitioner is a partner, and it was used in transporting cement belonging to the firm across the river. The Petitioner is therefore not guilty of an offence under sec. 26 of the Act. He is also not guilty of an offence under sec. 25 of the Act, as the ghat he used is the ghat provided by the Railway authorities from which goods arriving at the station can be taken there from in boats by any member of the public and in using it to take his own goods in his own boat from the ghat, the accused was not using the ferry ghat so as to render himself liable to the payment of toll and in refusing to pay toll he was not guilty of

any offence under sec. 25 of the Act.

2. The convictions and sentences are therefore set aside and the accused is acquitted. The Rule is made absolute.