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In Re: Obhoy Chnadra Mookerjee
 Obhoy Chnadra Mookerjee

None

Court: Calcutta High Court

Date of Decision: Oct. 2, 1883

Acts Referred:
Criminal Procedure Code, 1898 (CrPC) â€" Section 145

Citation: (1884) ILR (Cal) 78

Hon'ble Judges: Pigot, J; Mitter, J

Bench: Division Bench

Judgement

Mitter, J.
I am of opinion that the basis on which the jurisdiction of Criminal Courts u/s 145 of the Code of Criminal Procedure is founded

does not exist in this case.

2. Section 145 says that, ""whenever a Magistrate is satisfied from a police report or other information that a dispute likely to cause a breach of the

peace exists, &c, &c,"" then a proceeding under this section may be instituted.

3. In this case what happened was this: A police report was submitted to the Magistrate on the 8th November 1882, and in that report the police

officer stated as his opinion that there was a dispute between the parties to these proceedings relating to a chur, and that in his opinion there was a

likelihood of a breach of the peace. This opinion was based upon this ground: The police officer says that if one of the parties would attempt to

collect rent forcibly from the ryots, there was a likelihood of a breach of the peace. Upon that, both the parties to these proceedings were called

upon to show cause why they should not be bound down to keep the peace. They appeared and asked the Magistrate to allow them time to settle

the matter amicably. For some reason or other this amicable settlement did not take place, and they were directed to enter into recognizances to

the amount of Rs. 500 each, not to commit a breach of the peace for four months.

4. Then on the 15th Pous 1289 (corresponding with the 29th December 1882) an application was made by Mohamed Sabir, the opposite party,

alleging that the applicant before us, viz., Obhoy Chandra Mookerjee, was about to commit acts of oppression upon his tenants, and in that

application Mohamed Sabir also stated that some of the tenants had complained against the servants of Obhoy Chandra. On that very day his

deposition was taken and he confirmed the statements made in his application. The Magistrate, without any further enquiry as to whether all these

statements were correct or not, on the 2nd January 1883, upon this petition, and the deposition of Mohamed Sabir, ordered the proceeding now

before us to be instituted.

5. It appears to me that it was the duty of the Magistrate to see whether there was any dispute likely to cause a breach of the peace concerning this

chur land before instituting these proceedings. He has acted simply on the statement of Mohamed Sabir, that is to say, he has assumed jurisdiction

without really satisfying himself as to whether there was a dispute between [80] the parties. It may be that Mohamed Sabir was anxious to have the

question of possession decided in a cheap way, but it was the duty of the Magistrate, u/s 145, to satisfy himself that really there was a dispute

likely to cause a breach of the peace concerning this chur land.

6. On the whole, I am of opinion that the foundation upon which the jurisdiction of the Criminal Courts u/s 145 is based was wanting in this case.

We therefore set aside the order, dated 16th July 1883, and the rest of the proceedings.

Pigot, J.

7. I entirely agree. I only wish to add that it seems to me that Magistrates ought to be very careful in acting u/s 145 of the Code of Criminal

Procedure, so as to guard themselves from the danger of assuming jurisdiction in cases not really contemplated by the section, and where the

suggested apprehension of a breach of the peace is little more than colourable, and made to induce the Magistrates to deal with matters properly

cognizable by the Civil Courts.