

## Ram Saran Pattak Vs Ragu Nandan Gir

**Court:** Calcutta High Court

**Date of Decision:** Dec. 16, 1910

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

**Citation:** 9 Ind. Cas. 6

**Hon'ble Judges:** Sharf-ud-Din, J; Holmwood, J

**Bench:** Division Bench

### Judgement

1. This was a rule calling upon the District Magistrate of Gya to show cause why the proceedings against the petitioner u/s 145, Criminal

Procedure Code, should not be quashed on the ground that they are without jurisdiction and in direct contravention of the ruling *Gui Ram Ghoshal*

v. *Lal Behary Das* 12 C.L.J. 22 : 6 Ind. Cas. 182 : 14 C.W.N. 611 : 37 C. 578. It has been pointed out to us by the learned *Vakil* who appears

to show cause and very properly pointed out that so far as the declaration of possession of the temple and the land on which it stands in favour of

*Raghunandan Gir* goes, that declaration has been made with full jurisdiction, and is not in contravention of any ruling of this Court.

2. The only objection which arises in this case is, whether the declaration that *Raghunandan Gir* is in possession of the offerings is an order made

with jurisdiction or not.

3. It is contended that the offerings made in a temple are of the same nature as the rents and profits arising out of land.

4. Now Section 145, Clause 2, says: ""For the purpose of this section the expression land includes buildings, markets, fisheries, crops or other

produce of land and the rents of profits of any Such property."" It appears clear to us that the offerings given by the worshippers for the worship of

any deity are not profits arising out of a building. If the deity be in a cave or under tree, as it originally was in years gone by, the offerings would

accrue in exactly the same manner. The offerings arise out of the deity irrespective of the building or the land upon which he may happen to dwell.

To hold otherwise would be to allow the Criminal Courts to interfere with the customary laws of this country. There are certain rules differing in

various sects and in various districts as to the apportionment of the offerings between the ground landlord, the actual holder of the temple, the

middleman and the pujari, and the sums which are devoted to the upkeep of the temple. Now it is quite impossible for the Criminal Courts to go

into these matters, and it is quite impossible to say that the whole of these offerings belongs to the ground landlord, middleman, pujari or to the

endowment. This matter, which depends entirely upon custom and sometimes upon an ancient grant or other documents, can only be adjudicated

upon by a competent Civil Court. And that was the view which appears to have guided the Judges who decided the case of *Gui Ram Ghoshal v.*

*Lal Behary Basil* 12 C.L.J. 22 : 6 Ind. Cas. 182 : 14 C.W.N. 611 : 37 C. 578. They say that ""considering also the scope of Section 145, Criminal

Procedure Code, we think that the present dispute (which was the right to perform the duties of a pujari) is certainly not one which was intended

that the section should cover"".

5. The argument that this case was u/s 147, Criminal Procedure Code, and, therefore, does not affect the present case which is one underâ€ Section

145, Criminal Procedure Code, does not help the petitioner. Because a case u/s 147, Criminal Procedure Code, is to be decided by the same

procedure and on the same principles as a case u/s 145, Criminal Procedure Code. And as the Judges say: ""it may be that it is impossible to

perform the duties of a pujari without entering upon the land on which the temple is built."" But when it comes to the question of the offerings being

disputed and not the house or the land, it is clear that the dispute is about movable property and it is now settled law that Section 145, Criminal

Procedure Code, has no concern with movable property.

6. We, therefore, consider that the order so far as it affects the offerings of the temple was made without jurisdiction and that portion of the order

of the lower Court must be discharged, the rule being made absolute to that extent and to that extent only.