

(1869) 06 CAL CK 0026

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Kalisankar Sandyal and
Others

RESPONDENT

Date of Decision: June 11, 1869

Judgement

1. Kalisankar Sandyal was convicted u/s 224 of the Indian Penal Code of escaping from lawful custody, and u/s 353 of using criminal force to deter a public servant from discharging his duty. The other prisoners were convicted u/s 225 for rescuing Kalisankar Sandyal, and u/s 353 for using criminal force. Each prisoner was sentenced to separate and cumulative punishments under each section, for breach of which he was convicted, the Magistrate holding that the offences were distinct and separate. Mr. Money and Mr. Bingham appeared for the prisoners, and contended that, as only one set of acts had been proved, which could only constitute one offence and not two offences, one punishment only could be awarded under one section only of the Penal Code, according to the principle laid down in *The Queen v. Radakant Paul* 9 W.R. Cr.R. 12, where it was held that, when substantially but one offence had been committed, and the acts which are the basis of the conviction on one charge, are the same acts which form the basis of the conviction in another charge, cumulative sentences on each charge should not be passed.

2. The following cases were also cited:--

The Queen v. Durzoollah and others 9 W.R. Cr.R. 33; *The Queen v. Baboolun Hijrah* 5 W.R. Cr.R. 7; *The Queen v. Sreemunt Adup* 2 W.R. Cr.R. 53; *The Queen v. Suroop Napit* 3 W.R. Cr.R. 54; *The Queen v. Dina Sheikh* 3 B.L.R. A.Cr.J. 16-N : 10 W.R. Cr.R. 63.