

(1881) 01 CAL CK 0004

Calcutta High Court

Case No: None

The Empress

APPELLANT

Vs

Salik Roy

RESPONDENT

Date of Decision: Jan. 13, 1881

Acts Referred:

- Penal Code, 1860 (IPC) - Section 211

Citation: (1881) ILR (Cal) 582

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

Bench: Division Bench

Judgement

Mitter, J.

This is a reference from the Judge of Sarun asking us to quash a commitment. The ground upon which we are asked to do so is, that the accused, who is charged with an offence u/s 211, Penal Code, should not have been committed for trial until the complaint which he made had been judicially enquired into; and the Judge refers to a case decided by this Court which he considers applies to the present case.

2. If the case referred to by the Sessions Judge is the case of Biyogi Bhaqut (4 C. L. R. 134) we may point out that it is not in all respects similar to the present case. In that case the complainant, dissatisfied with the Police investigation and report, made a complaint to the Magistrate, which was dismissed without hearing his witnesses.

3. We do not find in the record that there was any complaint made to the Magistrate in this case; but on the report of the Police that the case was false, the prosecution of the complainant was set on foot. We are unable to say that there is anything illegal in the proceedings, and we are supported in this view by the case of Empress v. Abul Hasan (I. L. R. All. 497). We are not aware of any recent ruling of this Court of a contrary tenor. We must, therefore, refuse to quash the commitment on the ground on which the Judge's recommendation is based; see Ashrof Alt v. The Empress (I. L. R. Cal. 281).