

(1868) 06 CAL CK 0007

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Tajumaddi Lahory

RESPONDENT

Date of Decision: June 2, 1868

Judgement

Phear, J.

We think that the first objection made by the Sessions Judge, in his reference, to the conviction of the Deputy Magistrate, is good. We think that the Deputy Magistrate had no jurisdiction to entertain and decide the case for the reasons which the Sessions Judge has given in, his reference. We think, however, that the second objection put forward by the Sessions Judge is not tenable. In our opinion, there is nothing to prevent the accused person himself from being proceeded against u/s 174 of the Indian Penal Code, notwithstanding that his surety had been already made to pay in consequence of the default of appearance of the accused person; but, as the first objection is good; the conviction must be quashed, the sentence set aside, and the prisoner, if still in custody, must be discharged.

¹[Sec. 174:--Whoever being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such. public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine, which may extend to five hundred rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.]

Non-attendance in obedience to an order from a public servant.

²[Sec. 219:--Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.]

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.