

(1872) 06 CAL CK 0002

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Haru and Another

RESPONDENT

Date of Decision: June 25, 1872

Judgement

Richard Couch, Kt., C. J.

1. We are of opinion that the question referred to the Full Bench should be answered in the negative. We agree in the decision in the case of The Queen v. Umesh Chandra Chowdhry (Ante, 147). This case was not cited in the case of The Queen v. Girish Chandra Ghose (7 B.L.R., 513) where no one appeared to support the conviction. In the other cases the point was not decided. The examination of the complainant by the Magistrate to whom the case is referred is sufficient for the regularity of the proceedings.

¹) See The Queen v. Narayan Naik 5 B.L.R., 660

² Before Mr. Justice F.B. Kemp and Mr. Justice S. Jackson

THE QUEEN V. UMESH CHANDRA CHOWDHRY." The 14th June 1870.

IN this case the Sessions Judge of Beerbhoom made a reference to the High Court, under P. 434 of Act XXV of 1861, to have the sentence of the Deputy Magistrate quashed, on the ground that the Magistrate of the district, without examining tie complainant, and reducing the examination into writing, and signing Ins name as Magistrate to such examination, referred the petition to the Deputy Magistrate for trial, contrary to s. 66 of Act XXV of 1861. In making the reference, the Sessions Judge cited as an authority the case of The Queen v. Mahim Chandra Chuckerbutty (a).

Reference to the High Court, under s. 434 of the Code of Criminal Procedure, by the Sessions Judge of Beerbhoom.

The Judgment of the Court on this reference was delivered by

KEMP, J.--In the case of *The Queen v. "Mahim Chandra Chackerbutty* 3 B.L.R. (A. Cr.). 67 referred to by the Judge there was a statement, but it was not each a statement as to amount to the complaint contemplated by s. 66 of the Code of Criminal Procedure. In the case referred to as, the Magistrate sent the petition presented by the complainant to the Deputy Magistrate, who exercise the full powers of a Magistrate. We think that, under s. 66 of the Procedure Code, and the Circular Order No. 6, dated the 16th May 1864, the Magistrate of the district was justified in making over the petition to the Deputy Magistrate for enquiry and trial (a).

(2) 7 B.L.R., 513.

(a) But see per Kemp, J., in *Iswar Chandra v. Umes Chandra Pal*, 8 B.L.R., 19, and per Glover, J. (Kemp, J., concurring) in *The Queen v. Girish Chandra Ghose*, 7 B. L R., 503