

(1910) 03 CAL CK 0050**Calcutta High Court****Case No:** None

Hari Pada Pal

APPELLANT

Vs

Jotish Chandra Chatterjee

RESPONDENT

Date of Decision: March 22, 1910**Citation:** 6 Ind. Cas. 181**Hon'ble Judges:** Stephen, J; Carnduff, J**Bench:** Division Bench**Judgement**

1. This is a Rule to show cause why the proceedings in a prosecution for cheating should not be stayed pending the hearing of a civil suit.

2. The case arises as follows: On the 15th August 1909, the petitioner granted a kobala of a certain piece of land to some body. This was registered on the 6th October. Meanwhile on the 20th August 1909, it is alleged by the complainant that the petitioner executed a kobala to him, taking Rs. 160 in consideration thereof, and he did this without mentioning the other kobala. On the 11th October, the complainant, coming to know of the first kobala, complained against the petitioner of the offence of cheating. The petitioner subsequently, on the 4th January, brought a suit against the complainant to have it declared that the kobala of the 20th August is a forgery, his case being that it has been forged and imputed to him on account of a quarrel between himself and his landlord.

3. On these facts and allegations, we were moved to stay the criminal proceeding pending the determination of the civil suit. The general rule is that, where a civil suit is brought subsequently to criminal proceedings, there should not be any stay of the latter. Looking at the facts of this case, and considering the substance of a report that has been made in this case, we do not see any reason for staying the criminal proceedings. Whichever course is followed, whether the criminal proceedings are stayed or not, there is a certain risk of a failure of justice, but we think we take the lesser risk by allowing the present criminal proceedings to proceed.

4. The Rule is accordingly discharged.