

**(1929) 07 CAL CK 0037****Calcutta High Court****Case No:** None

Kalachand Ghose and Others

APPELLANT

Vs

Tatu (Tahir) Shaik

RESPONDENT

**Date of Decision:** July 29, 1929**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 379, 426

**Citation:** AIR 1929 Cal 773**Hon'ble Judges:** Mukerji, J**Bench:** Division Bench**Judgement**

Mukerji, J.

The petitioners who have been convicted u/s 426, I.P.C., have obtained the present rule upon three grounds. Two of these grounds relate to the summary dismissal of the appeal and they purport to state that the judgment of dismissal was wrong as no sufficient reasons have been given therefor. This argument cannot be supported in view of the fact that no reasons need be recorded in support of the summary dismissal of an appeal. The third ground complains of the prejudice that has been occasioned to the petitioners by reason of the fact that while they were charged with an offence u/s 379, I.P.C., they have been convicted u/s 426, I.P.C. This conviction for an offence with which the petitioners were not charged, however, has not been to the prejudice of the petitioners. It is clear that they would not have liked a conviction u/s 379, I.P.C., to justify which there are ample findings in the judgment of the trial Court, any more than a conviction u/s 426, I.P.C. In any event, the Magistrate having found that the kalai that was cut and taken away was unripe, the conviction for mischief is fully justified. The rule is discharged.