

Bhola Nath Khanra and Others Vs Purna Chandra Banerjee and Others

Court: Calcutta High Court

Date of Decision: Aug. 30, 1920

Acts Referred: Criminal Procedure Code, 1898 (CrPC) â€” Section 195

Citation: AIR 1921 Cal 548 : 67 Ind. Cas. 730

Hon'ble Judges: N.R. Chatterjea, J; Cuming, J

Bench: Division Bench

Judgement

1. The petitioners before us have been directed to pay costs in a proceeding by which the lower Appellate Court revoked the sanction obtained by

the petitioners to prosecute certain persons.

2. The petitioners applied for function to prosecute three persons. The Court of first instance disallowed the application in respect of two, and

granted sanction in respect of ore of them. On appeal, the sanction was revoked by the lower Appellate Court but, as stated above, in doing so

that Court directed the petitioners to pay costs.

3. Section 195, Criminal Procedure Code, does not provide for awarding costs and we do not find any other provision in the Criminal Procedure

Code for awarding costs in such a matter.

4. On the other hand, our attention has been drawn on behalf of the petitioners to two cases--one in Weir"s Criminal Rulings Vol. 10, 4th Edition,

196 [See the case of Mahomed Dustagir Sahib v. Mahomed Karimuddeen 2 Weir 196] in which Collins, C. J., is reported to have held that the

powers of the CPC as to costs cannot be imported into a criminal proceeding, that the proceeding, though taken in a Civil Court, relates to a

criminal matter and was taken under the Criminal Procedure Code, and that the Court had no power to give costs u/s 195, Criminal Procedure

Code. A similar view appears to have been taken in a case in the Punjab Chief Court. [Bishen Das v. Rahmat Khan 28 Ind. Cas 329 : 5 P.R.

1915 Cr : 60 P.W.R. 1915 Cr : 16 Cri. L.J. 281

5. We agree in the view taken in those cases and accordingly set aside the order as to costs passed by the lower Appellate Court.