

(1922) 11 CAL CK 0015

Calcutta High Court

Case No: None

Shib Chandra Chakravarty

APPELLANT

Vs

Rabbani Mondal and Others

RESPONDENT

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**Date of Decision:** Nov. 23, 1922**Acts Referred:**

- Criminal Procedure Code, 1898 (CrPC) - Section 345
- Penal Code, 1860 (IPC) - Section 323, 342

**Citation:** AIR 1923 Cal 168 : 73 Ind. Cas. 322**Hon'ble Judges:** Suhrawardy, J; Newbould, J**Bench:** Division Bench

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**Judgement**

1. Three persons who are the opposite parties before us were tried by B. Sarendra Nath Banerjee, Magistrate, Second Class, at Bongaon, who framed charges against them for having committed offences punishable under Sections 323 and 342, Indian Penal Code. In the first charge they were alleged to have caused hurt to one Hari Nath Bose and in the second charge they were alleged to have wrongfully confined Hari Nath Bose and Shib Chandra Chakravarty. They were convicted on both these charges and they appealed to the District Magistrate. At the hearing of the appeal an application was made by Hari Nath Bose to compound the case u/s 345 Criminal Procedure Code. The District Magistrate allowed the compromise and acquitted all the appellants under that section.

2. This Rule has been obtained by Shiba Chandra Chakravarty on the ground that he was no party to the compromise and that, therefore, the acquittal so far as the offence committed against him was concerned, was illegal. We hold that this Rule must be made absolute on this ground. Though Hari Nath Bose was the complainant in the case that gave him no power to compound the offences u/s 345, Criminal Procedure Code. Under that section the persons by whom an offence may be compounded are set out in the 3rd column of the statement which forms part of

that section. Hari Nath Bose could compound the offences of hurt and wrongful confinement committed against him. But the only person who could compound the offence of wrongfully confining Shib Chandra Chakravarty was Shib Chandra Chakravarty himself. As he was no party to the compromise the acquittal of the accused on this part of the charge was illegal.

3. We accordingly make this Rule absolute. We set aside the order of acquittal so far as it relates to the conviction for the offence of wrongfully confining Shib Chandra Chakravarty. The appeal, so far as it relates to this offence, must be heard on the merits,

4. The three accused will appear before the Magistrate and execute fresh bail bonds for their appearance when called on.