

**(1910) 12 CAL CK 0024**

**Calcutta High Court**

**Case No:** None

The Emperor

APPELLANT

Vs

Noni Gopal Gupta and others

RESPONDENT

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**Date of Decision:** Dec. 6, 1910

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### **Judgement**

Jenkins, C.J.

Mr. P. L. Roy's position is that because he is prevented on the ground of Indra Nandi's acquittal from charging him at this trial as a conspirator, he is not thereby necessarily precluded from adducing evidence to show that Indra Nandi is as a fact a conspirator, and this, not with the object of asking us to hold that Indra is guilty. Mr. Roy admits that we cannot do so in view of his previous acquittal, but in order that we may view the association of the present accused with Indra Nandi as a piece of incriminating evidence against them. In other words the proposition is this: whether as regards a man who has once been acquitted it could afterwards be suggested in a Court of law that he was guilty, even as against a third person. Mr. P. L. Roy.-The proposition that because a man has been tried and found not guilty, therefore he must be held to be innocent of the crime charged, will not bear examination. It has been held in a case of malicious prosecution that the Judge has only evidence of a man's acquittal, not of his innocence, and it is competent to the Defendant to prove that he was really guilty.

2. [Jenkins, C. J.-You are taking the view of Mr. Greaves. The Court in R. v. Plummer [1902] 2KB. 339 at pp. 348, 349. did not agree with Mr. Greaves's opinion.]

3. Mr. P. L. Roy.-The point for discussion is not the trial of a man who has already been acquitted. There is of course a legal bar against that. But it does not, I submit, debar me from giving evidence in another trial because the judgment in acquittal is not admissible at all, either for or against.

4. [Jenkins, C. J.-Is that R. v. Plummer (i)?]

5. Mt. P. L. Roy.-It cannot be said in all cases that a verdict of not guilty is tantamount to a declaration of innocence. A man may be acquitted on a technical point or for want of proof.

6. [Jenkins, C.J.-Then is he not innocent ?]

7. Mr. P. L. Roy.-Innocent in the sense that he cannot be held to be guilty under the law.

8. [Jenkins, C. J.-Is there at law any intermediate stage between guilty and innocent ?]

9. Mr. P. L. Roy.-If a man is found not guilty upon a technical point he is acquitted but cannot be said to be innocent.

10. [Jenkins, C. J.-At law what do you say he is ?]

11. Mr. F. L. Roy.-At law he is not guilty.

12. [Jenkins, C. J.-If he is not guilty then he is innocent. R. v. Plummer [1902] 2 K. B. 339. is a particularly strong case in point. I understand you to say that you do not agree with what Mr. Justice Bruce says there, namely, that it is a very dangerous principle to adopt to regard a verdict of not guilty as not fully establishing the innocence of the person to whom it relates.]

13. Mr. P. L. Roy.-My submission is that it cannot be so held in all cases. I prove by the statement of the approver that he was initiated by Indra Nandi; I shall show further by his evidence, which will be corroborated, that he acted under the instructions of Indra Nandi, and therefore Indra Nandi must be a conspirator. JENKINS, C. J.-I am not satisfied that you are entitled to give evidence of Indra Nath Nandi's acts and declarations.