

(1877) 12 CAL CK 0007

Calcutta High Court

Case No: None

The Empress and

APPELLANT

Vs

Sashi Bhusan
Chuckrabutty
 In
Re: In the Matter of
the Petition of Sashi
Bhusan Chuckrabutty

RESPONDENT

Date of Decision: Dec. 18, 1877

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 90
- Penal Code, 1860 (IPC) - Section 176

Citation: (1879) ILR (Cal) 623

Hon'ble Judges: Broughton, J; Ainslie, J

Bench: Division Bench

Judgement

Ainslie, J.

The provisions of Section 90 of the Criminal Procedure Code and Section 176 of the Indian Penal Code ought not to be used for purposes of vexation, but in order to secure due information to Magistrates and the Police of offences committed within their jurisdiction: Provided that information is conveyed to the nearest Magistrate or Police officer by one of the parties bound to give such information; it is not reasonable that every other person who may possibly be bound to give information should be prosecuted for not having done so. A Police officer is not better off when he has half-a-dozen copies of the same report than when he has the first. In the present instance it appears as a matter of fact, from the record which has come up to us, that the petitioner did not himself get any information regarding the theft until the fourth day after its occurrence, and that, in the meantime, an account of the theft had been duly reported to the Police by another gomashtha and a punch of the village. Under these circumstances, there was nothing to be gained by further

information being given. All that the law intended to secure, namely, that these matters should not be concealed, had been secured. And in our opinion the present prosecution was unreasonable.

2. The Deputy Magistrate has passed a sentence, which Section 176 of the Penal Code does not admit of being passed. We, therefore, set aside the sentence passed, and we think that, under the circumstances of the case, it is not necessary to substitute any other for it. The accused will be discharged.