

(1869) 03 CAL CK 0017

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Ramgobind Chuckerbutty

RESPONDENT

Date of Decision: March 2, 1869

Judgement

Norman, J.

This was a proceeding u/s 17 of Act IX of 1868, for penalties to which the defendant was alleged to be liable for not taking out a certificate and paying for the same within seven days after the service upon him of a notice by the Collector requiring him to do so. The Deputy Magistrate of Mymensingh, Mr. Andrew, says, defendant could have told a servant to pay the assessment. He was guilty of a pardonable neglect for not doing so. Accordingly, he ordered him to pay the assessment, Re. 16, and a fine of one rupee.

2. The Collector of license Tax brought the matter to the notice of the Magistrate, Mr. Alexander, and eventually an application was made to this Court on behalf of the Government of Bengal, praying that the record might be sent for, u/s 404 of the Code of Criminal Procedure, on the ground that the conviction was illegal, inasmuch as the Magistrate had no power to remit any portion of the fine, being bound, under the 17th section, to impose on every offender, on conviction, a fine equal to twice the sum mentioned on such notice. We have sent for the record. We are of opinion that the contention of the Government pleader is correct. We should not have had any hesitation in quashing the conviction, and remitting the case to the Magistrate for a fresh trial, but that Baboo Anukul Chandra Mookerjee, on the part of the Government, states, that the Government does not desire to press the case further as against the party convicted.