
(1870) 06 CAL CK 0007

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Umesh Chandra
Chowdhry

RESPONDENT

Date of Decision: June 4, 1870

Judgement

Kemp, J.

In the case referred to by the Judge, there was a statement, but it was not such a statement as to amount to the complaint contemplated by section 66 of the Code of Criminal Procedure. In the case referred to us, the Magistrate sent the petition presented by the complainant to the Deputy Magistrate, who exercises the full powers of a Magistrate. We think that, u/s 66 of the Procedure Code, and the Circular Order No. 6, dated 16th May 1864¹, the Magistrate of the district was justified in making over the petition to the Deputy Magistrate for enquiry and trial.

¹ Act XXV of 1861, s. 66.--"When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the district, or a Magistrate who is authorized to receive such complaint without reference from the Magistrate of the district, such Magistrate shall examine the complainant. The examination shall be reduced into writing, and shall be signed by the complainant and also by the Magistrate."

² Act XXV of 1861, s. 273.--"Criminal cases brought before the Magistrate of the district, or a Magistrate in charge of a division of a district, either on complaint preferred directly to such Magistrate, or on the report of a Police Officer, may be referred by such Magistrate to any Magistrate subordinate to him."

³ The Circular Order contained the following Rules:

2.--"A Judge shall not be engaged in any other business whilst the examination of a witness is going on, or whilst any documentary evidence is being read.

3.--"If, after the examination of a witness has commenced, the Judge he compelled to attend to any other business, the examination of the witness shall be suspended as long as such other business is being attended to.

4.--"The examination of a witness shall not be interrupted for the purpose of enabling the Judge to attend to other business, unless such business be of an urgent nature.

5.--"If the evidence be not taken down by the Judge, he shall, at the time that the evidence is being given by the deponent, make a memorandum in his own hand-writing of the substance of what each witness deposes. Such memorandum shall be written legibly in the vernacular language of the Judge, or in English, at the option of the Judge, if he is sufficiently acquainted with that language, and it shall be signed by the Judge, and dated, and shall form part of the record, and be always sent up with the record to the Appellate Court in the event of an appeal."