

(1881) 02 CAL CK 0018

Calcutta High Court

Case No: None

In Re: Deela Mahton

APPELLANT

Vs

RESPONDENT

Date of Decision: Feb. 28, 1881

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 359

Citation: (1881) ILR (Cal) 714

Hon'ble Judges: Prinsep, J; Cunningham, J

Bench: Division Bench

Judgement

Cunningham, J.

We think that the Magistrate was not at liberty to refuse to summon the witnesses tendered by the accused, except on the grounds specified in Section. 359 If the Magistrate think that any witness is included in the purpose of vexation or delay or of defeating the ends of justice he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material. If the magistrate be not so satisfied he shall not be bound to summon the witness but in doubtful cases he may summon such witness if such a sum is deposited with the Magistrate as he thinks necessary to defray the expense of obtaining the attendance of the witness one of the Code of the Criminal Procedure; and that if he did refuse on those grounds, he ought to have proceeded under that section. The fact that the accused stated that they did not wish to examine those witnesses when the case closed, was no reason for refusing to summon them to meet fresh evidence which had been taken by the Magistrate after hearing the arguments on behalf of the defence. We must, accordingly, direct that the proceedings be recommenced from that stage, and that the Magistrate do either take the evidence or record his reasons for not doing so, and proceed as directed by law.