

(1878) 08 CAL CK 0012

Calcutta High Court

Case No: None

Achiraj Lal and
Another

APPELLANT

Vs

The Empress

RESPONDENT

Date of Decision: Aug. 13, 1878

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 90

Citation: (1879) ILR (Cal) 604

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

Bench: Division Bench

Judgement

Markby, J.

But I also think that neither of these two persons would come within Section 90 of the Code of Criminal Procedure. With regard to the person who appears to be really a khazanchi, although possibly he performs some other duties, I do not think that he would be an agent within the meaning of that section under any circumstance, unless we extend this section to all servants of zemindars, which I certainly should not feel disposed to do. With regard to the dewan, he might be an agent within the meaning of the Act if his master was absent. But it would be unreasonable to extend the operation of the Act to a dewan who was acting only under the orders of his resident master. The section is exceedingly vague in its language and, unless strictly construed, might be made the instrument of great oppression

2. The conviction and sentence must be set aside, and the petitioners released.

Prinsep, J.

(After noticing the irregularities referred to by Markby, J., proceeded as follows):As regards Section 90, I think there is considerable force in the argument of Mr. Branson, that although the commencement of that section refers to an agent of an owner or occupier of land responsible for giving information to a Magistrate, when

it comes to declare the nature of that information, the terms of the first three clauses seem to exclude that class, referring only to the other classes. It would seem either that this was an accidental omission on the part of the legislature, or that the legislature expressly intended that an agent is responsible only for giving information regarding the last clause--that is, of the occurrence of any sudden or unnatural death. It is not on this ground, however, that I would set aside the conviction and sentence in this case, but I think it necessary to draw attention to the state of the law, so that, if there is any accidental omission, it may be rectified when the Code comes under amendment.