

(1868) 08 CAL CK 0026

Calcutta High Court

Case No: None

The Queen

APPELLANT

Vs

Mahbub Khan

RESPONDENT

Date of Decision: Aug. 2, 1868

Judgement

Norman, J.

I think it quite clear that the Magistrate might have convicted summarily in this case, under the 26th Section of Act IV of 1866 (B.C.). The prisoner is rightly charged with abetting the offence described in section 161 of the Penal Code. The Custom House Officer, on board the ship "Solway" was offered a rupee by the prisoner, to induce him to receive on board a case, for which there was no Custom House pass. Had the Officer received the bribe, he would have committed the offence described in Section 116 of the Penal Code, and the prisoner, by trying to induce him to do so, would have abetted that offence. Section 116 of the Penal Code enacts, that "whoever abets an offence punishable with imprisonment, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished." &c.

2. Section 26 of Act IV of 1866 (B.C.) enacts, that "when any person is charged before a Magistrate with having committed, within the said town, &c., any of the offences specified in this section, &c., it shall be lawful for the Magistrate to proceed to try the case summarily," &c. The offences referred to in this section, include offences u/s 161 of the Penal Code, and Clause 25 adds, "abetment of any of the foregoing offences." It is clear that the prisoner is rightly charged with abetment of an offence u/s 161, and the Magistrate, therefore, had power to try the prisoner summarily for abetting the offence.