

(1904) 02 CAL CK 0015

Calcutta High Court

Case No: Rev. No. 1018 of 1903

Harendra Lal Roy

APPELLANT

Vs

The King-Emperor

RESPONDENT

Date of Decision: Feb. 10, 1904

Judgement

1. If the question raised in this case were one of first impression, we should have hesitated to decide it in favour of the Petitioner. But having regard to the observations of a Division Bench of this Court in the matter of Radha Nath Chowdhry and another 7 C. L. R. 289 (1880), observations which have in a recent case been approvingly quoted by Mr. Justice Rampini in the case of Kazi Zeanuddin Ahmed 5 C. W. N. 771: S. C. I. L. R. Cal. 504 (1901), we think that this rule should be made absolute. It appears that the Petitioner is an absentee co-sharer in the property where the riot took place, and there is no evidence to show that he takes an active part in the management of the property. There are two other co-sharers. One of them, as we understand, has already been convicted and sentenced to pay a fine under sec. 155, I. P. C. In these circumstances, we think that the conviction and sentence in this case should be set aside and the fine, if realised, be refunded. We order accordingly.