
(1893) 04 CAL CK 0002
In the Calcutta High Court

Abdul Majid

APPELLANT

Vs

Krishna Lal Nag

RESPONDENT

Date of Decision : 13-04-1893

Acts Referred:

Bengal Tenancy Act, 1885 — Section 95
Penal Code, 1860 (IPC) — Section 193, 199

Citation : (1893) ILR (Cal) 724

Hon'ble Judges : Trevelyan, J; Rampini, J

Bench : Division Bench

Judgement

Rampini, J.—This is a rule calling on the other side to show cause why the order of the District Judge of Noakhali sanctioning the prosecution of the applicant under Sections 193 and 199, Indian Penal Code, should not be set aside. It appears that the District Judge appointed a common manager u/s 95 of the Bengal Tenancy Act, and that the applicant was called upon to deliver certain accounts and papers to the common manager so appointed. The manager reported that the applicant would not furnish him with these accounts and papers, and the District Judge then instituted a miscellaneous proceeding in respect of this matter. In this proceeding the applicant made a certain statement and filed two affidavits, alleging that he had not the accounts and papers called for. It is held that this statement before the District Judge and the allegations made in the affidavits were false, and upon these grounds the District Judge has sanctioned the prosecution of the applicant under Sections 193 and 199. Now, we find no provision in the Bengal Tenancy Act authorising a District Judge to make any such enquiry or to order the applicant to deliver up any such papers, and we further find no provision in that Act or any other law authorising the District Judge to examine the applicant on oath in such proceedings. We do not think, therefore, that the applicant can be said to have been legally bound by oath when he was examined before the District Judge. Therefore the facts alleged do not disclose that he committed any offence u/s 193, Indian Penal Code. Furthermore, we cannot find any provision of the law, or any rules having

the force of law, permitting the use of affidavits in such proceedings or authorising the administration of an oath to persons who profess to file affidavits in such proceedings. Therefore we do not think that the facts show the commission of any offence by the applicant u/s 199, Indian Penal Code. We accordingly think there are no grounds why the applicant should be prosecuted under either of these sections. We therefore set aside the order of the District Judge sanctioning the present prosecution, and direct that the proceedings be quashed and the rule made absolute.