
(1974) 01 GAU CK 0004
In the Gauhati High Court

Balu Mia and Others

APPELLANT

Vs

Matiur Rahman Choudhury and Others

RESPONDENT

Date of Decision : 03-01-1974

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 145

Citation : (1974) CriLJ 1005

Hon'ble Judges : Baharul Islam, J

Bench : Single Bench

Judgement

Baharul Islam, J.—This reference has been made by the Sessions Judge, Cachar Silchar, and arises out of a proceeding u/s 145 of the Code of Criminal Procedure.

The reference has been made on the ground that the learned Magistrate has not referred to all the documents and affidavits filed by the parties and as such, according to the learned Sessions Judge, the impugned order is not warranted by Sub-section (4) of Section 145, Criminal Procedure Code,

2. Shri P. G. Barua, learned Counsel appearing in support of the reference leads me through the impugned order passed by the Magistrate. It appears from the order of the Magistrate that after receipt of the initial order the parties appeared: the first party filed its written statements, 11 affidavits and other documents including copy of a decree in a civil suit. The second party also filed us written statement 11 affidavits and some documents. The Magistrate appears to have considered all these documents. He has assessed their value and ultimately came to the conclusion that the first Party was in possession of the disputed land. He has disbelieved the case of the second party. So he declared the first party to be in possession of the land.

3. The basic purpose of a proceeding u/s 145 is prevention of breach of the peace and the procedure for disposal of the proceeding is summary. No appeal has been provided against an order passed u/s 145. On the too of it the party against whom an order is passed has its remedy before a Civil Court. That being

the position, it cannot be expected that the order of the Magistrate u/s 145, Criminal Procedure Code should be as thorough as a judgment in a criminal prosecution or in a civil suit. In my opinion in the instant case the judgment of the learned Magistrate is well considered and cannot be said that it was not warranted by Sub-section (4) of Section 145, Criminal Procedure Code, as observed by the learned Sessions Judge.

4. In the result this reference has no merit and is rejected.