
(1910) 06 CAL CK 0009
In the Calcutta High Court

Bhairab Chandra Kolay

APPELLANT

Vs

Corporation

RESPONDENT

Date of Decision : 09-06-1910

Acts Referred:

Calcutta Municipal Act, 1923 — Section 444

Citation : 6 Ind. Cas. 874

Hon'ble Judges : Teunon, J;Harington, J

Bench : Division Bench

Judgement

1. This is a Rule calling upon the Municipal Magistrate and on the Chairman of the Corporation to show cause why the conviction and sentences passed on the accused should not be set aside on the ground that the joint penalty passed on the two accused on the 8th March last is illegal and on certain other ground which is unnecessary for us now to deal with.

2. What happened in this. There was a house which, u/s 444 of the Calcutta Municipal Act, had been found to be unfit for" human habitation. An order was issued prohibiting persons from using the same or suffering it to be used for the purpose of human habitation. Of the two accused one is the owner and the other was apparently occupying the building with him. These two persons have been convicted, u/s 444, Clause 2, read with Section 574, for disobedience to the order of the Magistrate made u/s 444, Clause 2. In each of these two persons, the act of disodediencie was a separate offence. In our view the passing of the joint conviction and joint penalty on the two persons each of whom committed an offence is not warranted by any provisions of law.

3. We have perused the explanation of the Magistrate and we have heard the learned Vakil who shows cause against the Rule. Neither the learned Vakil nor the Magistrate are able to support the sentences by any provisions of law.

4. The result is we must make the Rule absolute on the ground that the passing of the joint penalty on the accused who are guilty of separate offences is illegal.

We, therefore, set aside the conviction and sentence passed on the accused and direct that the case be re-tried. The fines, if paid, must be refunded.