

(1894) 03 CAL CK 0011
In the Calcutta High Court

Bhojal Sonar and Others

APPELLANT

Vs

Nirban Singh and Others

RESPONDENT

Date of Decision : 01-03-1894

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 148

Citation : (1894) ILR (Cal) 609

Hon'ble Judges : Hill, J;Beverley, J

Bench : Division Bench

Judgement

Beverley and Hill, JJ.—We are of opinion that we ought not to interfere with the order of Mr. Babonau, dated the 29th July 1893. We think that the action of Mr. Hudda in assessing, by his order of 5th May 1891, the costs which had been allowed by Mr. Leeds' order of the 15th September 1888, was without jurisdiction. In this view we are supported by a decision of this Court in the case of Queen-Empress v. Sheikh Kaman and Ors., first party, and Jhonti Sing, second party, decided on the 10th November 1891, in which the Court held that u/s 148 of the Code of Criminal Procedure it was only the Magistrate who passed the decision, who was authorized to make an order regarding the payment of costs, and we think that the assessment of costs must be taken to be a necessary part of that order. We think, therefore, that, under the circumstances, Mr. Hudda had no jurisdiction to assess the costs in this case more than two years after the order for payment of costs had been made by Mr. Leeds, and that "Mr. Babonau was justified in refusing to make an order to realize those costs. The rule is discharged.