

(1909) 12 AHC CK 0037
In the Allahabad High Court

Bitu Rai

APPELLANT

Vs

Bisheshar Rai and Others

RESPONDENT

Date of Decision : 20-12-1909

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 145

Citation : 5 Ind. Cas. 128

Hon'ble Judges : Tudball, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

Tudball, J.—This is an application for revision of an order purporting to have been passed by a Magistrate u/s 145 of the Criminal Procedure Code. Bisheshar and Bhagole applied to the Magistrate to take action under that section with reference to certain land and crops standing thereon. The Magistrate passed no order such as is contemplated by Clause (1) of that section. The only order was that Bitau, the opposite party, should be summoned and the complainant should adduce his evidence. On the date fixed the Magistrate merely examined the patwari and thereupon passed final orders. The Magistrate has clearly not adopted the procedure laid down in Chapter XII nor is his action based on any other Chapter to be discovered in the Criminal Procedure Code. His final order is, therefore, clearly passed without jurisdiction and I accordingly suit aside. It will, however, be open to the Magistrate if he deems it necessary to take action under Chapter XII of the Code. It may be as well to call his attention to Form No. 22 of Schedule 5 of forms of processes attached to the Code. If this form had been used, as it ought to have been, the Magistrate would not perchance have been led to commit the error apparent on the record.