

(1935) 11 CAL CK 0005
In the Calcutta High Court

Corporation of Calcutta.

APPELLANT

Vs

Ganesh Chandra Dhar and Another

RESPONDENT

Date of Decision : 20-11-1935

Acts Referred:

Calcutta Municipal Act, 1923 — Section 363

Citation : AIR 1936 Cal 20

Hon'ble Judges : Guha, J;Bartley, J

Bench : Full Bench

Judgement

Bartley, J.—This rule was issued on the Municipal Magistrate of Calcutta, calling on him to show cause why his order dated 20th May 1935 striking off proceedings against the other opposite parties to the rule, on the ground that they were barred by limitation, should not be set aside. The material facts are that on 5th September 1933, the Magistrate, on an application by the Calcutta Corporation, passed orders u/s 363, Calcutta Municipal Act, directing demolition of certain structures erected by the opposite parties, within three months. These orders were not complied with, and on 12th March 1935, about 18 months later, an application was made on behalf of the Corporation to prosecute the offenders u/s 488 of the Act. This was refused, on the ground that further proceedings were barred by limitation.

2. Now u/s 534 of the Act, no person is liable to punishment for an offence unless the complaint is made within three months of its commission, or, in the case of a continuing offence, of the date on which the offence was first brought to the notice of the Executive Officer or of the Corporation. In the present case, there is no evidence whatever on record to show when the offence was first brought to notice, and in view of their delay in taking action, it was obviously the duty of the Corporation to establish in the first place, that proceedings begun at such a late stage were still within the period of limitation prescribed by law. The provisions of Section 534 indicate the necessity of prompt action, and delays such as we have noted in the present case is as little to the interest of the

Corporation as to that of the ratepayers. This rule must accordingly be discharged, and we direct accordingly.

Guha, J.

3. I agree.