

(1897) 12 CAL CK 0007
In the Calcutta High Court

Dolegobind Chowdhry and Others

APPELLANT

Vs

Dhanu Khan

RESPONDENT

Date of Decision : 14-12-1897

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 107

Citation : (1898) ILR (Cal) 559

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

Bench : Division Bench

Judgement

Banerjee and Hill, JJ.—This is a rule calling upon the Magistrate of the District to show cause why the orders complained of, purporting to have been made u/s 107 of the Code of Criminal Procedure, should not be set aside.

2. The ground upon which our interference is asked is, that the proceedings recorded show that the case is properly one for the [561] institution of proceedings u/s 145 Of the Code of Criminal Procedure, and not u/s 107. The order complained of is one that has the evident effect of binding down only one of the parties to the dispute, leaving the other party free, without any adjudication upon the question as to which of the two parties is in possession. We think the contention urged on behalf of the petitioners is right and ought to prevail.

3. We, therefore, set aside the order u/s 107.