

(1897) 09 CAL CK 0009
In the Calcutta High Court

Durga Charan Mali

APPELLANT

Vs

Nobin Chandra Sil

RESPONDENT

Date of Decision : 21-09-1897

Acts Referred:

Penal Code, 1860 (IPC) — Section 183
Village Chaukidari Act, 1870 — Section 26

Citation : (1898) ILR (Cal) 274

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

Bench : Division Bench

Judgement

Banerjee and Wilkins, JJ.—Upon the facts found by the Joint Magistrate himself, the provisions of Sections 26 and 27 of the Village Chaukidari Act (Bengal Act VI of 1870) had not been complied with, and the chaukidar had no authority to attach the property in question. Resistance to the attachment by him cannot, therefore, we think, constitute an offence u/s 183 of the Indian Penal Code. This view is to some extent supported by the case of *Abdool Gaffur v. Queen-Empress* (1896) ILR 23 Cal. 896.

We, therefore, set aside the conviction and sentence, and order refund of the fine if it has been realized.