

(1927) 05 CAL CK 0003
In the Calcutta High Court

In Re: Khondakar Mahammad Makhi and Others

Date of Decision : 16-05-1927

Acts Referred:

Legal Practitioners Act, 1879 — Section 36

Citation : 116 Ind. Cas. 173

Hon'ble Judges : Page, J;Mitter, J

Bench : Division Bench

Judgement

1. These are three Rules obtained for the purpose of questioning the insertion in a list of persons proved to be touts the names of the three petitioners before us. We do not propose to express any opinion in these cases as to the mode of proof which must be followed by a Judicial Officer making an enquiry u/s 36 of the Legal Practitioners Act because no evidence of a nature known to the law that the persons who have obtained these Rules habitually acted as touts was obtained before their names were put in the list of touts. A large number of persons said to be over 100 in number, were paraded before the Judicial Officer making the enquiry apparently in the presence of a large body of members of the legal profession practising in the District. From the petitioners in these cases it appears that no evidence in the legal sense, oral or by affidavit or otherwise was relied upon before the names of the petitioners were inserted in the list of touts. Nothing that we say is to be taken as an expression of opinion upon our part that all or any of the persons who have obtained these Rules are not touts. All that we say is that the insertion of their names in the list of touts was not made in accordance with procedure laid down in Section 36 of the Legal Practitioners Act. Nothing that we say would prevent an enquiry being embarked upon u/s 36; but any such enquiry must proceed in accordance with the provisions of the Legal Practitioners Act. The learned District Magistrate upon whom notices of these Rules were served had said nothing in explanation or rebuttal of the statements made in the several petitions. Indeed, the District Magistrate has gone so far as to say that in the case of two of the petitioners he had no remarks to make and in the other case that he has no cause to show against the Rule. In these circumstances in the case of each of the petitions the Rule must be made

absolute. We make no order as to costs.