

(1901) 02 CAL CK 0008
In the Calcutta High Court

Kina Karmakar

APPELLANT

Vs

Preo Nath Dutt

RESPONDENT

Date of Decision : 04-02-1901

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 250
Penal Code, 1860 (IPC) — Section 211

Citation : (1902) ILR (Cal) 479

Hon'ble Judges : Stephen, J; Prinsep, J

Bench : Division Bench

Judgement

Prinsep and Stephen, JJ.—In this case the Magistrate has dismissed the complaint; and finding it to be false and vexatious he has passed an order u/s 250 of the Code of Criminal Procedure, giving compensation to the accused. In his judgment the Magistrate clearly indicates that in- his opinion from the previous relations between the principals of the parties concerned, the complaint made was both false and malicious and made with some deliberation. It seems to us therefore that this was essentially a case coming within s. 211 of the Penal Code, inasmuch as the Magistrate has found that the complainant, with intent to cause injury to the accused, instituted criminal proceedings against him, knowing that there was no just and lawful ground for such proceeding or charge. We are, therefore, of opinion that, in passing the order for compensation, the Magistrate did not exercise a proper discretion. We accordingly set aside that order. The Magistrate is at liberty, if he is so advised, to institute proceedings u/s 211 of the Penal Code. The money, if paid, will be refunded.