

(1902) 02 CAL CK 0005
In the Calcutta High Court
Case No : Rev. No. 998 of 1901

Kokil Ghose and another

APPELLANT

Vs

Kasimuddi Malita

RESPONDENT

Date of Decision : 21-02-1902

Acts Referred:

Citation : (1902) 02 CAL CK 0005

Judgement

1. In the present case the witnesses for the prosecution were cross-examined before the framing of the charge, and it is understood that this was done by special arrangement for the convenience of the accused persons, now the Petitioners before the Court, and was done on the understanding that they would not require the witnesses to be recalled for further cross-examination after the charge. Accordingly, when they applied that the witnesses might be recalled after the charge had been framed, the Magistrate refused to grant their request. We think that under the provisions of the law it was not open to the Magistrate to so refuse, and we must make the rule absolute, set aside the conviction, and direct that he recall the witnesses for the prosecution and after giving the Petitioners an opportunity of cross-examining them complete the trial afresh from that point.

2. We notice that in their application for the recall of the witnesses the Petitioners offered to pay the expenses incidental to their recall, and we think that in the circumstances it is proper that they should do so.