
(1900) 05 CAL CK 0002
In the Calcutta High Court

Lal Mahmud Shaik

APPELLANT

Vs

Satcowri Biswas and Others

RESPONDENT

Date of Decision : 07-05-1900

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 250, 386, 387, 388(2)

Citation : (1901) ILR (Cal) 164

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

Bench : Division Bench

Judgement

Prinsep, J.—The Magistrate passed an order u/s 250, Code of Criminal Procedure, directing the complainant to pay compensation in a certain sum, and he further directed that "if the compensation is not realized within eight days, that is, by the 3rd March, the complainant shall undergo 30 days" simple imprisonment." In consequence of the terms of this order, a rule has been granted to show cause why it should not be set aside as contrary to Section 250, Code of Criminal Procedure. In reply the District Magistrate has submitted that the order is legal and warranted by the terms of the section; and he contends that inasmuch as it is declared that "compensation shall be recoverable as if it were a fine" it follows that as, on non-payment of a fine, imprisonment can be ordered in default, a similar order can be at once passed in respect of non-payment of compensation. The Magistrate, however, has misread the law. It only directs that "compensation shall be recoverable as if it were a fine" and Section 386 and the following section of the Code direct by what means a fine shall be recovered. These sections would, therefore, be applicable for realization of the money ordered to be paid as compensation. But in regard to an order for imprisonment in such a case, Section 250, proviso (2) declares that, "if the compensation cannot be recovered, simple imprisonment may be awarded for such term not exceeding 30 days." The alternative (imprisonment) therefore can only be awarded if Compensation cannot be recovered. The case, therefore, is different from one in which a sentence of fine may have been passed. A case like the present, moreover, is provided for by Section 388 (2). The order for imprisonment is,

therefore, set aside. The Magistrate is competent to proceed in accordance with the law in the terms of Section 250 (2) if the compensation has not been recovered on receipt of this order.