

**(1931) 07 CAL CK 0008**  
**In the Calcutta High Court**

Mahim Chandra Guha Dev Barman

APPELLANT

Vs

Amjad Ali

RESPONDENT

---

**Date of Decision :** 23-07-1931

**Acts Referred:**

Criminal Procedure Code, 1898 (CrPC) — Section 526

**Citation :** AIR 1931 Cal 710

---

**Judgement**

1. This rule must be discharged on the ground that the application on which it was issued cannot be entertained. The application was one u/s 526, Criminal P.C., for the transfer of a criminal appeal which is now pending before the Sessions Judge of Chittagong to some other Court. Under Clause (4), Section 52(3, every such application, except when the applicant is the Advocate-General, shall be supported by an affidavit and Section 539 lays down that this affidavit is to be sworn before the High Court, or the clerk of the Crown, or any Commissioner, or other person appointed by the High Court for that purpose. An affidavit was filed along with the application for transfer u/s 526; but that affidavit purports to have been sworn before an officer of the District Judge's Court at Chittagong. That being so, the affidavit that has been tiled in the present case is not sufficient for the purpose of Section 526. Sub-section (4) and that being the case, the application u/s 526, on the basis of which the rule was issued, cannot be entertained. The rule is, accordingly discharged.