

(1895) 07 CAL CK 0002
In the Calcutta High Court

Mahomed Ershad Ali Khan Choudhry

APPELLANT

Vs

Saroda Prosad Shaha and Another

RESPONDENT

Date of Decision : 16-07-1895

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 148

Citation : (1896) ILR (Cal) 37

Hon'ble Judges : Macpherson, J;Bannerjee, J

Bench : Division Bench

Judgement

Macpherson and Bannerjee, JJ.—We reject this application. The principal ground urged is that the Magistrate, who made the order for the payment of costs u/s 148 of the Code of Criminal Procedure, did not at the time assess the amount of costs, and that the District Magistrate, on the transfer of the first mentioned officer, had no jurisdiction to make the assessment. In support of this, the case of Bhojal Sonar v. Nirban Singh ILR Cal. 609 has been cited. That case no doubt is an authority for the contention, but it has been reconsidered in the case of (Gridhar Chatterjee v. Ebadullah Naskar ILR Cal. 384, and one of the learned Judges who disposed of the former case was one of the learned Judges who decided the latter case. Although he distinguished the first mentioned case, the effect of the decision was that, when there was an order to pay costs u/s 148 by the Magistrate deciding the case, another Magistrate had jurisdiction to assess the amount of the costs. We are not, therefore, prepared to follow the case of Bhojal Sonar v. Nirban Singh ILR Cal. 609, and we reject the application.