
(1931) 02 CAL CK 0003
In the Calcutta High Court

Probodh Chandra Guha

APPELLANT

Vs

Corporation of Calcutta

RESPONDENT

Date of Decision : 09-02-1931

Acts Referred:

Calcutta Municipal Act, 1923 — Section 391

Citation : AIR 1932 Cal 64 : 136 Ind. Cas. 136

Hon'ble Judges : Cuming, J

Bench : Division Bench

Judgement

Cuming, J.—The facts of the case are these:

2. On 4th February 1928 a gentleman described as a Theatre Inspector brought a charge against the present petitioner Probodh Chandra Guha for not taking out a license u/s 391. Of what Act Section 391 is a section does not appear, but I am told it is a section of the Calcutta Municipal Act. The parties themselves then do not seem to have taken any further interest in the ease. The Magistrate records a number of orders of absentee and fixes a number of dates of which not the slightest notice seems to have been taken. I have referred to the manner in which this Magistrate keeps his record in another case (1261). I would only remark this record is kept in the same dirty and slovenly way.

3. At last on 13th October 1930, nearly three years after the ease was instituted, the parties condescended to be present and the Magistrate passed the following extraordinary order the meaning of which I have been unable to discover:

Agent says P.C. Guha is no longer Secretary.

The Art Theatre Limited are fined Rs. 100 only u/s 391 under which accused is liable for a few months performance also.

4. If I understand the order rightly the Art Theatre Limited have been fined Rs. 100 though, as far as I can see, they were not the accused persons but it was P. M. Guha who was the accused. What the remark of the Magistrate—"under which

accused is liable for a few months performance also"--I do not pretend to understand.

5. As in other cases no attempt whatsoever has been made in this case to comply with, the provision of Section 370, Civil P.C.

6. Hardly any of the particulars required to be recorded by the Magistrate have been so recorded.

7. I might point out that the headings of the application for summons made by the Corporation are not recorded by the Magistrate. I would draw the attention¹ of the Chief Presidency Magistrate to the record and request him to see that; records are properly prepared and the provision of Section 370, Civil P. C, observed.

8. In the present case I have no alternative but to set aside the order of the Magistrate being apparently a meaningless order.

9. He could not convict the Art Theatre Ltd., as they were not the accused, and so far as I can understand no order has been passed really with respect to the accused P. M. Guha.

10. Let a copy of this order also be sent to the Local Government.