
(1899) 09 CAL CK 0005
In the Calcutta High Court

Queen-Empress

APPELLANT

Vs

Natu and Another

RESPONDENT

Date of Decision : 06-09-1899

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 337(2), 339(3)

Citation : (1900) ILR (Cal) 137

Hon'ble Judges : Rampini, J;Pratt, J

Bench : Division Bench

Judgement

Rampini and Pratt, JJ.—In this case the Magistrate has revoked the pardons tendered to Natu and Kekar and has committed them for trial to the Sessions along with Sarafdi, though not for murder with which Sarafdi is charged. We agree with the Sessions Judge that the Magistrate's procedure is wrong, and that it was premature to remove Natu and Kekar from the category of witnesses. It seems clear from Clauses (2) and (3) of Section 337 of the Criminal Procedure Code that they are to be made available as witnesses at the trial of the case in the Sessions Court. Moreover, it is the intention of the law that a person to whom a tender of pardon has been made should not be tried for an alleged breach of the conditions upon which the pardon was tendered until the original case has been fully heard and determined. See *Queen-Empress v. Sudra* I.L.R (1891)., 11 All., 336. We must also point out that in committing the accused for trial for an offence u/s 194 of the Indian Penal Code the Magistrate appears to have contravened the injunction contained in Clause (3), Section 339 of the Criminal Procedure Code, viz., "no prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court." Under the circumstances we quash the commitment of Natu and Kekar, and direct that they be detained in custody until the termination of the trial of Sarafdi by the Court of Session. This order will not preclude the Magistrate from hereafter proceeding against Natu and Kekar in accordance with law.