

(1897) 06 CAL CK 0022
In the Calcutta High Court

Queen-Empress

APPELLANT

Vs

Tomijuddi and Others

RESPONDENT

Date of Decision : 26-06-1897

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 148

Citation : (1897) ILR (Cal) 757

Hon'ble Judges : Wilkins, J; Ghose, J

Bench : Division Bench

Judgement

Ghose and Wilkins, JJ.—We think that in these two cases the Magistrate should not have passed his ex parte orders for costs u/s 148 of the Criminal Procedure Code, when his original orders u/s 145 contained no directions at all as to costs, and no application for costs was made to him until after the expiration of over 3 months from the date of such orders. Proceedings under these sections of the Procedure Code are quasi-civil in their nature. The intention of Section 148 would seem to be that an order for, and the assessment of, costs should be made at the time in the presence of the parties. This being so, such costs should not be ordered and assessed by the Magistrate after a long interval and without allowing all the parties affected an opportunity to appear and show cause.

We set aside the orders of the Magistrate in both cases dated 20th January 1897.