

(1922) 03 PAT CK 0028
In the Patna High Court
Case No : Crim. Rev. No. 601 of 1921

Raja Kalanand Singh and others

APPELLANT

Vs

Hirde Misser and others

RESPONDENT

Date of Decision : 24-03-1922

Acts Referred:

Citation : (1922) 03 PAT CK 0028

Judgement

Ross, J.—This is an application by the first party, who may be briefly described as Rajas of Baneili, against an order passed by the Sub-Divl. Magistrate of Bhagalpur under S. 145 of the Criminal Procedure Code declaring the rights of the parties in a ferry known as Karhil Ferry which plies on the river Ghagri between Nagarpara, on the south and Nagarpara, Raotara and Murat on the north. The second party are the proprietors of Nagarpara. There is no dispute that the ferry belongs to the second party and that originally it plied between Nagarpara on the south and Nagarpara on the north. In 1324 the river changed its course and was no longer in Nagarpara alone. In October, 1918 a new ferry ghat was opened in plot No. 60 in Nagarpara and plot 507 in Raotara. A dispute arose and proceedings were taken under S. 107. The matter was referred to arbitration and the award of the arbitrators was embodied in a registered document on 23-4-1920, whereby it was agreed that no matter where the landing stage was located the petitioners would be entitled to one half of the tolls. The learned Magistrate holds that that agreement was accepted by the 8 annas, landlords of Nagarpara and they are bound thereby, but that the opposite party Nos. 17, 21 and 22, owners of the other 8 annas did not accept it and are not bound. He therefore ordered that the said contesting second party should be entitled to realize their entire share of the ferry dues. The main objection to this order is that, so far as there is any dispute between the parties, it relates to the right of the second party to take passengers to and from Raotara, and so far as the Magistrate's order has the effect of declaring that the second party have this right, it is without jurisdiction. Raotara is admittedly in Madhipura sub-division, and the proper tribunal for the decision of any question as to the taking of

passengers by ferry from and to Raotara is the Court of the Sub-divisional Magistrate of Madhipura. This part of the order is clearly without jurisdiction and the order of the Magistrate will be modified as follows :- It is declared that the second party are in possession of Karhil Ferry and are entitled to take passengers from Nagarpara on the north to Nagarpara on the south. So far as the order declares the rights of the second party to take passengers to and from Raotara it is without jurisdiction and is set aside, without prejudice to the rights of the parties which may be declared by a competent Court.