

**(1914) 05 CAL CK 0018**  
**In the Calcutta High Court**  
**Case No : Rev. No. 493 of 1914**

Shaikh Bagu

APPELLANT

Vs

Raika Singh

RESPONDENT

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**Date of Decision :** 14-05-1914

**Acts Referred:**

**Citation :** (1914) 05 CAL CK 0018

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### **Judgement**

1. In this case it appears that the Petitioner complained against a police constable, one Raika Singh, his complaint being to the effect that while the constable was employed in impressing carts for certain purposes, he voluntarily caused grievous hurt to one Sheikh Tajoo. The constable was placed on his trial before a Deputy Magistrate of Chaibassa and after a trial extending over a month and a half he was acquitted under sec. 258, Cr. P. C. The Petitioner thereupon obtained this Rule from this Court calling upon the Deputy Commissioner of Chaibassa and upon the accused to show cause why this order of acquittal complained of should not be set aside, practically on the merits. We have read and considered the judgment of the trying Magistrate and we are forced to the conclusion that he has failed to deal with the case before him with judicial care and impartiality. While laying great stress on all considerations that might affect the credibility of the several prosecution witnesses, it would seem that he has omitted to take into consideration what might be advanced in their favour. In particular we find that he has failed to appreciate or even to correctly cite in his judgment the evidence given by a Deputy Magistrate named Babu Bhaba Deb Sarkar. This witness says that as he was passing by he saw the accused constable running away followed by a number of men who were shouting, some apparently "maro shalake" some apparently "mar dia." Amongst the men pursuing the constable was the Petitioner Sheikh Bagu. The Deputy Magistrate proceeds to say that he stopped the Petitioner and questioned him and that the Petitioner thereupon informed him that the constable had broken the leg or knee of some one of his relatives. The trying Magistrate has wholly omitted from his judgment this portion of the evidence. He has, there fore, failed apparently to

consider the corroborative value of that evidence What value in fact should be given to that evidence is not for us now to say, and we desire to say nothing that may prejudice the accused in the re-trial that we are now about to direct.

2. For the reasons we have given, we set aside the order of acquittal passed on the 6th March 1914 and direct that the accused Raika Singh be re tried. Having regard to all the facts of this case we are further of opinion that the re-trial should take place at the headquarters of another District. We direct accordingly that the case be now retried at the headquarters of the District of Manbhum by some competent Magistrate to be appointed by the District Magistrate of that District.