
(1920) 08 CAL CK 0022
In the Calcutta High Court

Sheikh Rahimmaddi

APPELLANT

Vs

Emperor at the Prosecution of Dwarka Nath Basistha

RESPONDENT

Date of Decision : 02-08-1920

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 421

Citation : 61 Ind. Cas. 173

Hon'ble Judges : N.R. Chatterjea, J;Cuming, J

Bench : Division Bench

Judgement

1. This is a Rule calling upon the District Magistrate of Dacca to show cause why the appeal heard by the Additional District Magistrate should not be re-heard.
2. No one appears to show cause, but the Trying Magistrate has sent up an explanation.
3. The only order passed on appeal runs as follows: "Heard Pleader, Appeal summarily dismissed."
4. The learned Magistrate says in his letter that, "there is nothing in Section 421 which requires the Appellate Court to assign reasons for dismissing appeals summarily, it is sufficient if it thinks that there is no sufficient ground for interfering".
5. It appears, however, that there were disputed questions of fact in this case. A large number of witnesses were examined on both sides upon the question of possession and there were a large number of documents also. The Court of first instance discussed the evidence and came to certain findings. In these circumstance, we think that the appeal should not have been summarily dismissed without sending for the record.
6. The order complained of (i.e., the order dismissing the appeal) must, therefore, be set aside and the case sent back for rehearing the appeal.
7. The appeal will be heard by some other Magistrate at Dacca empowered to

hear appeals.