

(1913) 11 CAL CK 0020
In the Calcutta High Court
Case No : Rev. No. 1721 of 1913

Sheonandan Singh and another

APPELLANT

Vs

Bholanath Pattak

RESPONDENT

Date of Decision : 21-11-1913

Acts Referred:

Citation : (1913) 11 CAL CK 0020

Judgement

1. This Rule arose out of a case in which the Sub-Divisional Magistrate of Aurangabad convicted the Petitioners under sec. 426, I. P. C., and directed the Police under sec. 517, Cr. P. C., to deliver possession of a garden over which the Petitioners were alleged to have obtained possession by means of trespass. Against this order of the Sub-Divisional Magistrate the Petitioners moved this Court and obtained a Rule which was made absolute. Bisesur Sing v. King-Emperor, p. 1146 ante On the Petitioners" applying to the Sub-Divisional Magistrate for redelivery of the possession of the garden to them, the Magistrate passed the following order--"My order re delivery of possession has been set aside by the High Court and there the matter ends. I am not aware of any law authorising me to direct the Police to restore the garden to Petitioners" possession. File." Against that order of the Magistrate the Petitioners obtained this Rule calling upon the District Magistrate of Gya to show cause why the Sub-Divisional Magistrate of Aurangabad should not be directed to order the Police to deliver possession of the garden in question to the Petitioners. No cause is shown against this Rule, and we are of opinion that it must be made absolute. The first Rule that we made absolute on the 30th May last set aside the order under sec. 517. Clearly our order of the 30th May last carried with it the incident of restoration of the garden in question to the Petitioners.

2. We now direct that the Sub-Divisional Magistrate of Aurangabad through the Police do restore possession of the garden in question to the Petitioners.