

(1869) 08 CAL CK 0023
In the Calcutta High Court

The Queen

APPELLANT

Vs

Jan Mahommed

RESPONDENT

Date of Decision : 03-08-1869

Acts Referred:

Citation : (1869) 08 CAL CK 0023

Judgement

Kemp, J.—In this case the offence was one against public justice (section 193, Indian Penal Code). It can be entertained by the Criminal Court with the sanction of the Civil Court before whom the offence was committed; vide section 169, Code of Criminal Procedure. The Munsiff sent the case for investigation to the Magistrate, u/s 171, Code of Criminal Procedure. The Magistrate returned the case to the Munsiff, who has committed the accused to the Sessions on a charge u/s 193 of the Indian Penal Code.

2. The Munsiff, as the case was triable in the Sessions Court, was competent to commit instead of sending the case to the Magistrate for investigation, section 173, Code of Criminal Procedure; and we think it was perhaps irregular in the Munsiff committing the case himself after sending it to the Magistrate for investigation and commitment. We direct the Judge to instruct the Magistrate to proceed according to law after taking the evidence. The papers of the case are returned to the Judge.