
(1934) 03 CAL CK 0001
In the Calcutta High Court

W. D. Jordon

APPELLANT

Vs

Mahadeo Lai and Brothers

RESPONDENT

Date of Decision : 23-03-1934

Acts Referred:

Provincial Insolvency Act, 1920 — Section 72(2)

Citation : AIR 1934 Cal 764

Hon'ble Judges : Nasim Ali, J;Lort Williams, J;Lord Williams, J

Bench : Full Bench

Judgement

Lort Williams, J.—This is an appeal from an order made on 4th February 1933, u/s 72 (2), Provincial Insolvency Act. The insolvent was adjudicated on 10th March 1928, obtained the credit alleged on 28th December 1929, and was discharged on 2nd April 1932. The only substantial point raised on appeal is whether the Court had jurisdiction to make an order under the section after the insolvent had been discharged. In our opinion the Court had no such jurisdiction. Orders under the provisions of this section can be made only at some time prior to the date of the discharge of the insolvent and during the insolvency.

2. This is clear from the terms of the section, which would be grammatically; inappropriate if they had been intended to apply to a discharged insolvent, who had committed such an offence during his insolvency and prior to his discharge. Moreover, that this was the intention of the legislature, is plainly indicated by the fact that Section 71 provides for the criminal liability of the insolvent after his discharge, but only for the offences specified in Section 69 and not for the offence specified in Section 72(1); whereas, under the analogous Sections 102, 103, 104 and 105, Presidency-towns Insolvency Act, and Section 162, English Bankruptcy Acts 1914, and 1926. it has been provided that the insolvent shall be liable for all such offences without distinction, in spite of the fact that he has been discharged. The result is that this appeal must be allowed with costs, and the order of the District Judge set aside. Hearing-fee two gold mohurs.

Nasim Ali, J.

3. I agree.