

**Chakrapan Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/460344](http://sooperkanoon.com/460344)

**Court :** Allahabad

**Decided On :** Jul-03-1929

**Reported in :** AIR1930All319

**Appellant :** Chakrapan

**Respondent :** Emperor

**Judgement :**

**Dalal, J.**

1. I am of opinion that the trial Court was wrong in not giving an opportunity to Cakrapan to produce his evidence. Reference was made by the opposite party to a ruling in the case of Tarapada Biswas v. Nurul Hug [1905] 32 Cal. 1093, that it was not obligatory on a Magistrate to assist parties to a proceeding under Section 145, Criminal P.C., in producing their witnesses. That ruling, however, was passed long prior to 1923, when Clause (4), Section 145, was amended by Act 18 of 1923 and the Magistrate was directed to receive all such evidence as may be produced by the parties. The direction to receive evidence implies in my opinion a duty on the Court to summon such witnesses as may be mentioned to the Court by either party. It may be noticed that the information given to the parties under Section 145(1) is not that they should bring their witnesses along with them. The parties filed written statements, so it may be said that the Court was not put to the necessity of hearing the parties themselves. There can be no doubt that the

Magistrate did not give Chakrapan an opportunity of producing his evidence.

2. I therefore set aside the order of the Magistrate dated 10th November 1928, and direct an enquiry as to possession over again, as laid down by the provisions of Section 145(4), Criminal P.C.

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