

In Re: Gamirullah Sarkar

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Court : Kolkata

Decided On : Feb-25-1884

Reported in : (1884)ILR10Cal408

Judge : Prinsep and ;O'Kinealy, JJ.

Appellant : In Re: Gamirullah Sarkar;gamirullah Sarkar

Respondent : ;abdul Sheikh

Judgement :

Prinsep, J.

1. The petitioners have been convicted in a summary trial of mischief and criminal trespass.

3. The Sessions Judge has submitted the proceedings in order that the conviction and sentence may be quashed. First, because 'the judgment appears to rest principally on two documents referred to in it, which are not evidence against the accused at all.' This objection, however, is effectually disposed of by the fact that there is ample legal evidence, and therefore, under Section 167 of the Evidence Act, we cannot interfere.

2. The Sessions Judge next relies on the cases of Shakur Mahomed v. Chunder Mohun Sha 21 W.R. Cr. 38 and Issur Chunder Mundle v. Rohim Sheikh 25 W.R.

Cr. 65. With regard to the first case, we would refer to the case of Sonai Sardar v. Bukhtar Sardar 25 W.R. 46 explaining it as no authority for the proposition quoted, and with regard to the other case, we would remark that the present case cannot be regarded as a bond fide claim of right depriving the Magistrate of jurisdiction, so that the case quoted is not in point. We therefore see no reason to interfere.

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