

Chathu Rai Vs. Niranjan Rai

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SooperKanoon Citation : sooperkanoon.com/854894

Court : Kolkata

Decided On : May-09-1893

Reported in : (1893)ILR20Cal729

Judge : Trevelyan and ;Rampini, JJ.

Appellant : Chathu Rai

Respondent : Niranjan Rai

Judgement :

Trevelyan and Rampini, JJ.

1. In this case the learned Counsel in support of the order of the Magistrate has only been able to refer us to Section 437, Code of Criminal Procedure, in support of the power of the Magistrate to make the order which he had passed. Now, that section only allows a further enquiry into a complaint. A complaint means a complaint of an offence [Section 4 (a), Criminal Procedure Code], and an offence is defined in the Code as 'any act or omission made punishable by any law for the time being in force.' We think it is quite clear that Section 437, which enables a Magistrate to make an order for further enquiry does not authorize him to order a further enquiry in a case under Section 145, which is not directed to any offence at all. That being so, we think that this rule must be made absolute, and that the orders dated the 9th February and 24th February should be set aside.

