

In Re: Janokey Nath Roy

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SooperKanoon Citation : sooperkanoon.com/855387

Court : Kolkata

Decided On : Jul-15-1877

Reported in : (1877)ILR2Cal466

Judge : Richard Garth, C.J. and ;Markby, J.

Appellant : In Re: Janokey Nath Roy

Judgement :

Richard Garth, C.J.

1. We are clearly of opinion that no appeal lies in this case, and that we ought not to grant leave to admit the appeal. Leave granted by a Judge to institute proceedings is not a 'judgment' within the meaning of Clause 15 of the Charter. If authority were wanted, the case of *The Justices of the Peace of Calcutta v. The Oriental Gas Co.* 8 B.L.R. 433 would be ample authority for our judgment. But apart from that, this leave given by the Court is the creation of a late Statute. It is a power which did not exist when the Charter was passed. It is a power of a peculiar kind. The object is to check rash proceedings in criminal matters being taken. It gives power to take proceedings, which could not have been taken without leave. As the Legislature has not thought fit to give an appeal from such an order, we think that this appeal should not be admitted.