

Ram Prosad Maitra Vs. Emperor

Ram Prosad Maitra Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/860469

Court : Kolkata

Decided On : May-28-1928

Reported in : AIR1928Cal569

Appellant : Ram Prosad Maitra

Respondent : Emperor

Judgement :

1. In this case, the complaint was dismissed under Section 203, Criminal P.C. Subsequently, the matter went before the learned Sessions Judge and he was of opinion that the complaint should not have been disposed of under Section 203, Criminal P.C., without the complainant been examined on oath. It appears, however, that the complainant was not present in Court on any of the dates on which the matter came before the Magistrate. Therefore, the Magistrate had no opportunity whatsoever of examining the complainant on oath. It was the business of the complainant to be present in Court if he desired to have his statement taken on oath. As already stated he not being present in Court the matter was disposed of by the Magistrate under Section 203, Criminal P.C. In a case like this, where the complainant does not choose to be present, he cannot be heard afterwards to say that the matter should be sent back to the Magistrate for further enquiry. In this view of the matter the order made by the learned Sessions Judge is set aside. The Rule is accordingly made absolute.

