

Fidoi Hossein Vs. Emperor

Fidoi Hossein Vs. Emperor

SooperKanoon Citation : sooperkanoon.com/864549

Court : Kolkata

Decided On : Nov-28-1912

Reported in : (1913)ILR40Cal376

Judge : Sharfuddin and ;Coxe, JJ.

Appellant : Fidoi Hossein

Respondent : Emperor

Judgement :

Sharfuddin and Coxe, JJ.

1. This is a Rule calling upon the District Magistrate to show cause why the order of the Appellate Court, under Section 110 of the Criminal Procedure Code, should not be set aside and the appeal re-heard, on the ground that the District Magistrate had omitted to take into consideration the evidence for the defence.

2. We have received the explanation sent to us by the learned District Magistrate, wherein he has admitted that in the appeal before him he did not think it necessary to deal with the evidence adduced by the defence in the case. But he says this was because no reference to that evidence was made by the counsel who appeared for the appellant before him, and the evidence on the part of the defence was practically ignored in the argument. There is no doubt, however, that it was the duty of the Appellate Court to look into that evidence, and after dealing with it

to come to a decision. For that reason we think it necessary that the case should go back for re-hearing. The appeal will be re-heard by the District Magistrate, and at the re-hearing of the appeal he should deal with the evidence on both sides.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com