

The Empress Vs. Nipcha and anr.

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Court : Kolkata

Decided On : Dec-02-1878

Reported in : (1879)ILR4Cal712

Judge : Jackson and ;Tottenham, JJ.

Appellant : The Empress

Respondent : Nipcha and anr.

Judgement :

Tottenham, J.

1. It seems to me that the Judge is wrong in his law throughout.
2. The Deputy Magistrate did expressly sanction a complaint under Section 211, and even took bail for the appearance of the accused. The sanction was none the less valid because the person to whom it was given did not avail himself of it, and sanction having been given, the Magistrate of the district was competent, under Section 142, Code of Criminal Procedure, to take up the case without a complaint.
3. As to the change from Section 211 to Section 192, the sanction in respect of one offence covers also one under the other on the same facts (ss. 470 and 450, Code of Criminal Procedure).

4. But, after all, it would appear that the Judge would acquit the prisoners on the merits also. It will be sufficient, therefore, to point out to the Judge that his view of the law is erroneous.

5. His attention should also be called to the fact that he has omitted to sign the depositions recorded by him as required by para. 2, Section 335, Code of Criminal Procedure.

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