

The Empress Vs. Baidanath Das

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SooperKanoon Citation : sooperkanoon.com/869500

Court : Kolkata

Decided On : Feb-18-1878

Judge : Richard Garth, C.J., ;Kemp, ;L.S. Jackson, ;Markby and ;Ainslie, JJ.

Appellant : The Empress

Respondent : Baidanath Das

Judgement :

Richard Garth, C.J.

1. We are clearly of opinion, that an offence under Section 49, Act XXI of 1856, can be tried summarily by a Magistrate under Section 222 of the Criminal Procedure Code.

2. The confiscation, which is provided for by Section 49, is merely a consequence of the conviction, and does not form part of the punishment for the offence. We observe that, in the case of Khetter Mohun Chowrunghee 22 W.R. Cr. Rul. 43, to which we are referred, the question which we are called upon to decide was given up by the Government Pleader without argument; and that in the second case the learned Judges merely followed the ruling in the first, so that this would appear to be the first occasion on which the point has been seriously considered.