

Khetter Mohan Mitter Vs. Emperor

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Court : Kolkata

Decided On : Jan-03-1913

Reported in : 18Ind.Cas.412

Judge : Sharfuddin and ;Coxe, JJ.

Appellant : Khetter Mohan Mitter

Respondent : Emperor

Judgement :

1. This was a Rule calling upon the opposite party to show cause why the proceedings should not be set aside for the present, on the ground that they were instituted upon a complaint and that, therefore, process ought not to have been issued until the complainant had been examined on oath.

2. The learned Sub-Divisional Magistrate has explained that he took cognizance of the offence under Section 190 Clause (c), Criminal Procedure Code. But it would seem that this must be a mistake, because the letter of Babu Nirapada Mukerjee, on which the proceedings were initiated, is on the record of the case, and if really the case was not started on that latter, it is difficult to understand why it should find a place on the record. In that letter, Babu Nirapada Mukerjee stated that the present petitioner used insulting language towards him and asked the Magistrate to take action. This certainly comes within the definition of complaint given in Section 4, Criminal Procedure Cods; and the learned Magistrate, therefore, should

have examined the complainant and then proceeded in accordance with law.

3. The Rule is made absolute. The Magistrate will now proceed to examine the complainant and then deal with the case in accordance with law.

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