

Benode Behary Nath Vs. Emperor

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Court : Kolkata

Decided On : Jul-28-1922

Reported in : 81Ind.Cas.61

Judge : Walmsley and ;Chotzner, JJ.

Appellant : Benode Behary Nath

Respondent : Emperor

Judgement :

Walmsley, J.

1. This Rule relates to a Reference under the provisions of Section 123, Criminal Procedure Code. The Sessions Judge of the 24-Parganas transferred the hearing of the Reference to the First Additional Sessions Judge and the Rule was obtained calling upon the District Magistrate to show cause why that order of transfer should not be set aside on the ground that such References can be heard only by the Sessions Judge himself. Mr. Monnier on behalf of the petitioner has examined the Criminal Procedure Code exhaustively dealing with all the sections which he thinks have a bearing on the question. Of these Section 193, Clause (2) seems to me most important and I am not prepared to whittle it down in the manner which Mr. Monnier suggests. I do not see any reason why it should not be interpreted in a liberal sense and I think that the Notification published by the Government of Bengal, Circular Judicial No. 113 J.D. of the 19th of June 1916 purporting to be an

order under Clause (2) of Section 193, Criminal Procedure Code does authorize the Sessions Judge to transfer such cases to the Additional Sessions Judge for disposal. I, therefore, think that the First Additional Sessions Judge has jurisdiction to hear the Reference. The Rule is accordingly discharged. Let the record be returned to the lower Court at once.

2. Chotzner, J.--I agree.

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