

Umer Ali Vs. Safer Ali and anr.

Umer Ali Vs. Safer Ali and anr.

SooperKanoon Citation : sooperkanoon.com/871849

Court : Kolkata

Decided On : Aug-19-1886

Reported in : (1886)ILR13Cal334

Judge : Prinsep and; Ghose, JJ.

Appellant : Umer Ali

Respondent : Safer Ali and anr.

Judgement :

Prinsep and Ghose, JJ.

1. The Joint Magistrate has taken an erroneous view of the law regarding proceedings to be taken on receipt of a complaint made under Section 191 of the, Code of Criminal Procedure. He is not competent to refuse to take cognizance of an offence on receipt of a complaint of facts constituting an offence, but he is rather bound to examine the complainant. He can then proceed to issue summons on the accused or to order an enquiry under Section 202, or to dismiss the complaint under Section 203. The use of the term 'may take cognizance of any offence' does not make it optional with a Magistrate to hear the complainant. It refers rather to the action of a Magistrate in taking cognizance of an offence, in either of these specified courses in which the facts, constituting an offence, may be brought to his notice. The case must be tried.

