

Radharaman Saha Vs. Emperor

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Court : Kolkata

Decided On : Mar-02-1931

Reported in : AIR1931Cal712

Appellant : Radharaman Saha

Respondent : Emperor

Judgement :

Cuming, J.

1. The facts of the case will appear from the judgment of the learned Magistrate. The petitioner has been convicted under Section 157, I. P.C.
2. The case is briefly that on a certain day two persons who are what are described as volunteers came to the house of the petitioner and he gave them food.
3. The Magistrate finds that by so doing he harboured these persons and that he was aware that these two had formed or were likely to have formed an unlawful assembly the common object of which was the commission of an offence punishable under Section 4 of the Ordinance of 1930. On the findings of the learned Magistrate no offence under Section 157 has been committed.

4. The Magistrate finds that the petitioner was aware that in some past time the two volunteers had formed or were likely to have formed an unlawful assembly.
5. Section 157, I. P.C. clearly refers to some unlawful assembly in the future It provides for an occurrence which may happen not which has happened. The findings of the learned Magistrate do not justify a conviction under Section 157.
6. The conviction and sentence must therefore be set aside and the petitioner acquitted. The fine if paid must be refunded.

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