

**In Re: Apurba Krishna Roy**

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**SooperKanoon Citation :** [sooperkanoon.com/877243](http://sooperkanoon.com/877243)

**Court :** Kolkata

**Decided On :** Mar-10-1931

**Reported in :** AIR1931Cal801a

**Appellant :** In Re: Apurba Krishna Roy

**Judgement :**

**Panckridge, J.**

1. This is an application on behalf of the Karnani Industrial Bank which is a creditor to the extent of Rs. 53,000 that the public examination of the insolvent Apurba Krishna Roy be reopened.

2. The application appears to be extraordinarily belated. The adjudication order was made on the petition of a creditor on 8th May 1928, and the public examination was begun and concluded on 14th April 1930. It is stated on oath that notice of such examination was duly given to the present applicant as provided for by Section 27, Sub-section 1, Presidency Towns Insolvency Act. There is no denial that notice was not served upon the accredited representative of the bank and I must proceed on the footing that the examination of the insolvent was in fact held upon notice to the bank. There after there was correspondence between the bank and the Official Assignee where the bank stated that they were contemplating an application for reopening the public examination of the insolvent. No application was however made until this notice was taken out on 28th February

1931. Meanwhile on 19th February 1931 notice was served on the applicant that the insolvent intended to apply for his discharge. In spite of that there was no application for over a month to reopen the public examination. I am told the hearing of the application for discharge is fixed before the Registrar in Insolvency for today. It may be that the public examination was not so satisfactory as it might have been, but for that it seems to me that the Karnani Industrial Bank is largely to blame. The Bombay High Court in *Re Fardunji Dadabhai Daruvala* A.I.R. 1924 Bom. 512 has deprecated the making of any application for public examination after the insolvent has applied for his discharge and said that when the petition for his discharge is on the board for final hearing an order for examination will not be made except in very special circumstances. In the case which I have mentioned the person seeking permission to examine the insolvent appears to have been in a stronger position than the bank is in this case, for in that case the insolvent had been dealt with summarily and no public examination at all had been held. But none the less the application for public examination was refused as being made too late having regard to the fact that the insolvent's application for his discharge was pending. In the case before me there has been one public examination of which notice was given to the bank but which the bank has been content to ignore. In these circumstances I do not think the application is one, which ought to succeed and I dismiss it with costs. Certified for counsel.