

**Ganesh Sahu Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/886258](http://sooperkanoon.com/886258)

**Court :** Kolkata

**Decided On :** Feb-22-1923

**Reported in :** 73Ind.Cas.931

**Judge :** Newbould and ;Suhrawardy, JJ.

**Appellant :** Ganesh Sahu

**Respondent :** Emperor

**Judgement :**

**Newbould, J.**

1. The petitioner in this case has been convicted under Section 411, Indian Penal Code, on the charge of having been in dishonest possession of stolen property on the 7th December 1921. It appears that on that date several articles of property were found in the room occupied by the petitioner. In respect of some of them he was prosecuted and after being convicted under Section 411, Indian Penal Code, by the Trying Magistrate he was acquitted on appeal. He has now been tried and convicted in respect of other properties found in his possession on the same date. There was evidence that the different articles which were the subject of the charges in the two trials were stolen from different, persons, but there is no evidence that they were received at different times. The facts of the case cannot be distinguished from those of Queen-Empress v. Makhan 15 A. 317 : A.W.N. (1893) 101 : 7 Ind. Dec. (N.S.) 919 which follows the decision of a Divisional

Bench of this Court in *Ishan Muchi v. Queen-Empress* 15 C. 511 : 7 Ind. Dec. (N.S.) 925. On this authority we hold that the second trial was illegal under the provisions of Section 403, Criminal Procedure Code.

2. We accordingly make this Rule absolute and set aside the conviction and sentence passed on the petitioner and direct that he be discharged from his bail-bond.

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