

In Re: Chuni Lal Oswal

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Court : Kolkata

Decided On : May-07-1902

Reported in : (1902)ILR29Cal507

Judge : Stephen, J.

Appellant : In Re: Chuni Lal Oswal

Judgement :

Stephen, J.

1. The question now raised is whether witnesses appearing in accordance with an order made under Section 36 of the Insolvent Debtors Act, 1848, are entitled to be represented by Counsel. In an ordinary case a witness has, of course, no right to be represented. The differences, however, between the position of witnesses appearing in an ordinary cause, and the position of those appearing in the present proceedings, seem to me too weak for any sound argument to be based on the analogy between them. Here witnesses have, with perfect propriety, been cross-examined by Counsel to show that they have been guilty of serious fraud and conspiracy. I cannot think that the law intends that they should not have any chance of professional assistance to make an answer to such charges: the more so as it is much harder for the Court to protect their interests than it would be in an ordinary case. I am therefore glad to find that the matter has been already dealt with in the case of *In re Nursey Kessowji* (1879) I. L. R. 3 Bom. 270., where it is

laid down that in proceedings such as these under special circumstances Counsel may properly be allowed to attend on behalf of witnesses.

2. The charges mentioned above, to my mind, constitute special circumstances within the meaning of this rule, and I take the attending of Counsel to include acting as Counsel in the ordinary way. I therefore hold that the witnesses in the present case may be represented by Counsel with all the powers of Counsel ordinarily appearing in an ordinary case.

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