

1918

DEBENDRA
NATH DAS

v.

BIBUDHEN-
DRA MAN-
SINGH BHRA-
MARBAR
ROY.

Their Lordships are of opinion that this appeal should be dismissed with costs and that they will humbly advise His Majesty accordingly.

J. V. W.

*Appeal dismissed.*Solicitor for the appellant: *Edward Dalgado.*Solicitor for the respondent: *Solicitor, India Office.*

CRIMINAL REVISION.

Before Chitty and Richardson JJ.

1917

Aug. 24.

ASLAM MEAH

v.

EMPEROR*

Compromise—Petition of compromise presented to the Magistrate while writing judgment—Duty of Magistrate to accept, and give effect to, the petition—Criminal Procedure Code (Act V of 1898) s. 345.

Under s. 345 of the Criminal Procedure Code, a case may be compounded at any time before sentence is pronounced. A Magistrate, therefore, cannot refuse to accept a petition of compromise presented to him whilst he is writing the judgment.

THE petitioners, who were related to the complainant and lived together in the same house, were tried by Mr. B. K. Sen, an Honorary Magistrate of Noakhali, on a charge under s. 323 of the Penal Code, of assaulting the complainant. After the trial was over, and while the Magistrate was writing the judgment, the parties presented a petition of compromise, but he ordered the same to be filed, continued writing, and completed the judgment, convicting the petitioners and sentencing them to a fine on the 21st May 1917. During

*Criminal Revision No. 906 of 1917, against the order of P. Sen, Offg. Magistrate of Noakhali, dated June 14, 1917.

the hearing of the appeal to the District Magistrate, he directed a fresh petition of compromise to be filed before him, but the parties were unable to do so, owing to the absence of the complainant from the Court. The District Magistrate, thereupon, dismissed the appeal by his order dated 14th June 1917. The petitioner then moved the High Court and obtained the present Rule.

1917
 ASLAM
 MEAH
 v.
 EMPEROR.

Babu Santosh Kumar Bose, for the petitioners.

No one appeared for the opposite party.

CHITTY AND RICHARDSON JJ. In this case the opposite party, on whom the Rule was also served, does not appear to show cause. In his explanation the Magistrate, before whom the case was tried, states that he does not think that the compromise petition could be accepted at such a late stage, when the judgment was actually being written; but a case may be compromised under section 345 of the Code of Criminal Procedure at any time before the sentence is pronounced. We, accordingly, make the Rule absolute and set aside the conviction and the sentence passed on the petitioners. The fines, if paid, will be refunded.

E. H. M.

Rule absolute.