

1869

THE QUEEN
v.
RASSULNUSHY

ants. Under such circumstances, I am not prepared to say that the Magistrate was obliged to enquire into the dispute. Section 320 certainly gives the Magistrate a discretion in the matter. There is nothing in the petition to show that there was any dispute at the time the defendants dug up the pathway. The Civil Court is the proper tribunal to settle such disputes; and even the Magistrate's orders would be subject to the decision of a Civil Court. There are cases where a Magistrate should interfere to prevent a breach of the peace, but it does not follow that he must interfere in all cases. In the absence of all details as to when the occurrence complained of took place I think the Magistrate was right in this case in not interfering.

NORMAN, J.—I entirely concur in these remarks: It appears to me that it was for the complainants to make out a case for the summary interference of the Magistrate under section 320. They wholly failed to do so.

Before Sir Barnes Peacock, Kt., Chief Justice, and Mr. Justice Mitter.

SITANATH BOSE v. MATHURANATH ROY.*

Interest—Bond.

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Jany. 30.

When a bond is silent as to any interest to be allowed after the due date of the bond, it is in the discretion of the Court to fix the amount of interest, if any, to be paid from the due date of the bond to the date of the commencement of suit.

The following question was submitted by the Officiating Judge of the Small Cause Court of Kishnaghur, for the decision of the High Court :

“ In the case of a bond-debt, what amount of interest, if any, should be allowed between the due date of the bond and the date of action, when the bond itself is silent as to interest after the due date.”

The judgment of the High Court was delivered by

PEACOCK, C. J.—We are of opinion that there is no fixed rate at which interest must by law be allowed for the period which has passed between the time when the bond became payable and the commencement of the suit. That is a matter which was entirely in the discretion of the Court, having regard to all the circumstances of the case.

* Reference to the High Court from the Officiating Judge of the Small Cause Court of Kishnaghur, dated the 2nd December 1868.
