

Lalit Mohan Mondal and Others

Vs

Benoyendra Nath Chatterjee

Criminal Appeal No. 408 of 1981

(Syed M. Fazal Ali, V.B. Eradi JJ)

14.04.1981

### JUDGMENT

1. We have heard counsel for the parties and have gone through the judgment of the High Court. We agree with the High Court that against an order passed in appeal under Section 341 of the Code of Criminal Procedure, the order would not be revisable by the High Court under Section 397(2) of the Code of Criminal Procedure, but there can be no doubt that the court is entitled to examine the matter under Section 482 of the Code of Criminal Procedure which expressly overrules the bar contained in Section 341 of the Code. In the instant case, the High Court has merely indicated that this is not a fit case for invoking the inherent power without at all applying its mind whether or not in the circumstances, it was a fit case for filing a complaint, particularly when the matter rested merely on oath against oath.

2. For this reason, therefore, we allow this appeal and remit the case to the High Court to send for the records and satisfy itself whether the order directing complaint to be filed is expedient in the interest of justice, so as to attract its inherent jurisdiction under Section 482 of the Code. Meanwhile, further proceedings will be stayed.

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