

# CALCUTTA HIGH COURT

Debendra Nath Das Gupta

Vs

Registrar, Joint Stock Companies

(Teunon, C.J. Richardson, J.)

07.06.1917

## JUDGMENT

### **Teunon, C.J.**

1. In this case it appears that the petitioner was one of the Directors of a Joint Stock Company, known as the Darjeeling Press Company, Limited. He has been convicted under Section 134 (4) of the Indian Companies Act, VII of 1913, in respect of a default made in filing with the Registrar the balance-sheet for the year 1911-15.

2. It is not disputed that as a matter of fact in respect of the filing of the balance-sheet with the Registrar of Companies a default was made, and the defence of the petitioner as placed before us is that in fact in that year there was no general meeting and that being so, no balance-sheet was laid before the Company at any such general meeting. His contention then is that these preliminaries not having been fulfilled it was impossible for him or his Company to comply with the requirements of Section 134 and that he should have been convicted, if at all, not under Section 134 but under Section 76 or 131. But it is not disputed, and in fact it is admitted, that as one of the Directors the petitioner himself was responsible for ensuring that all the necessary preliminaries to be observed prior to the filing of the balance-sheet with the Registrar had been duly observed and that being so, on the principles laid down in the case of *Park v. Lawton*<sup>1</sup> we are of opinion that we ought to hold that it is not open to the petitioner to plead in answer to a charge under Section 134 his prior default in respect of the calling of the prescribed general meeting and of placing before the Company at such meeting a duly prepared and audited balance sheet.

3. The second contention on behalf of the petitioner is that if he had been prosecuted under Section 76 or Section 131 of the Act the Presidency Magistrate in Calcutta, before whom his conviction has been had, would have had no jurisdiction to try the offences charged under those sections and that the jurisdiction would have lain exclusively with the Magistrates in Darjeeling. However that may be, that does not take away the jurisdiction which the Presidency Magistrates in Calcutta clearly possess in respect of charges under Section 134, the office of the Registrar

with whom the balance-sheet should be filed being in fact in Calcutta.

4. For these reasons we discharge this Rule.

Cases Referred.

1(1911) 1 K.B. 588 : 80 L.J.K. B. 396 : 104 L.T. 184 : 75 J.P. 163 : 18 Manson 151 : 27 T.L.R. 192