

## **Lalit Mohan Mondal And Ors. vs Benoyendra Nath Chatterjee on 14 April, 1981**

**Equivalent citations: AIR1982SC785, 1982CRILJ625, (1982)3SCC219, AIR 1982 SUPREME COURT 785, 1982 (3) SCC 219, 1982 SCC(CRI) 697, 1982 MADLJ(CRI) 329.2, 1982 (1) SCJ 192.1, (1982) MAD LJ(CRI) 329(2), (1982) 1 SCJ 192(1), (1982) 1 APLJ 16**

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**Bench: Syed M. Fazal Ali, V.B. Eradi**

### **JUDGMENT**

S. Murtaza Fazal Ali, J.

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 Criminal P.C, the order would not be revisable by the High Court under Section 397(2) of the Criminal P.C. , but there can be no doubt that the Court is entitled to examine the matter under Section 482 of the Criminal P.C. 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.