

Empress Vs. Janki

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SooperKanoon Citation : sooperkanoon.com/327757

Court : Mumbai

Decided On : Nov-02-1882

Reported in : (1883)ILR7Bom82

Judge : West and ;Pinhey, JJ.

Appellant : Empress

Respondent : Janki

Judgement :

West, J.

1. The effect of Sections 37 and 40 of the Stamp Act I of 1879 is that every one must be allowed an opportunity of paying the penalty before the Collector exercises his discretion under Section 69. In many cases there may be a reasonable question as to whether any penalty is payable or not, and the duty may be recovered by an order which would be lost by a prosecution. He ought, at any rate, to do what the law commands as his duty before exercising a mere discretion. It is not abetment of the execution of an unstamped instrument to receive it, any more than acceptance of stolen property is abetment of theft. The Court is of opinion that the decision of Mr. Ingle is right.