

Empress Vs. Malka

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Court : Mumbai

Decided On : Jul-04-1878

Reported in : (1878)ILR2Bom643

Judge : Kemball and ;Pinhey, JJ.

Appellant : Empress

Respondent : Malka

Judgement :

Kemball, J.

1. The Court concurs with the District Magistrate in thinking that Mr. Anding's view is wrong. It, therefore, annuls his order of discharge, and directs that the trial of Malka be proceeded with and disposed of according to law. Section 122 of the Code of Criminal Procedure clearly contemplates two distinct cases: one is that of a person coming forward to state what he knows; the other is that of a person accused by a police officer of an offence who comes forward to confess his guilt. With regard to the former, the section provides that the statement made by him shall be recorded in the manner prescribed for recording evidence--that is to say, under Section 331 of the Code of Criminal Procedure, on oath or affirmation; whereas in the case of an accused person confessing to an offence of which he is accused, the Code, by Section 345, enacts that neither oath nor affirmation shall be administered to him.

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