

Queen-empress Vs. Konda

Queen-empress Vs. Konda

SooperKanoon Citation : sooperkanoon.com/788724

Court : Chennai

Decided On : Mar-03-1893

Reported in : (1893)ILR16Mad347; (1893)3MLJ180

Judge : Arthur J.H. Collins, Kt., C.J. and ;Shephard, J.

Appellant : Queen-empress

Respondent : Konda

Judgement :

1. In these cases the Magistrate dismissed the charge laid under Section 2 of Act XIII of 1859 on the ground that the term for which the contract between the parties had been made had expired. In our opinion this affords no reason why the Magistrate should not have adopted the alternative course provided in Section 2, and have directed the accused to repay the money advanced or such part thereof as might seem to the Magistrate just. The mere fact that the advance was made so long ago that the money could not be recovered by action is in our judgment no sufficient ground for refusing altogether to give effect to the penal provision of the Act.

2. In cases in which there has been great or unexplained delay on the part of the complainant the Magistrate can use his discretion as to the amount which he may direct to be repaid. The orders of dismissal are set aside and the Magistrate directed to proceed according to law.

