

**The Empress Vs. Dabee Pershad**

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**SooperKanoon Citation : [sooperkanoon.com/851184](http://sooperkanoon.com/851184)**

**Court : Kolkata**

**Decided On : Jan-31-1881**

**Reported in : (1881)ILR6Cal532**

**Judge : Prinsep, J.**

**Appellant : The Empress**

**Respondent : Dabee Pershad**

**Judgement :**

**Prinsep, J.**

1. The deposition is inadmissible. Section 76 of the High Courts' Criminal Procedure Act contemplates that evidence, when taken upon commission, if intended to be used in the High Court, must be taken upon an order made by that Court under that section. The terms of Section 158 of the Presidency Magistrates' Act, quoted by Mr. Phillips, refer only to the record of the trial or enquiry before the Magistrate. The evidence taken by a commission issued by order of a Magistrate could not here be admissible under Section 33 of the Evidence Act.