

**Emperor Vs. Abbas**

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**SooperKanoon Citation :** [sooperkanoon.com/860333](http://sooperkanoon.com/860333)

**Court :** Kolkata

**Decided On :** Sep-05-1911

**Reported in :** (1912)ILR39Cal150

**Judge :** Lawrence H. Jenkins, K.C.I.E., C.J.,; Woodroffe,; Mookerjee,; Carnduff and; D. Chatterjee, JJ.

**Appellant :** Emperor

**Respondent :** Abbas

**Judgement :**

Lawrence H. Jenkins, K.C.I.E., C.J., Woodroffe, Mookerjee, Carnduff and D. Chatterjee, JJ.

1. There is in our opinion no conflict between Sections 107 and 145 of the Criminal Procedure Code, so that the fact that there is a dispute concerning land, likely to cause a breach of the peace, does not deprive a Magistrate of jurisdiction under Section 107 of the Criminal Procedure Code, where he is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity.

2. Whether, after proceeding under Section 107 of the Criminal Procedure Code, it will be proper for a Magistrate to act under Section 145 of the Criminal Procedure Code, must depend on the circumstances of each case as it arises. It may be that

after an order under Section 107 no likelihood of a breach of the peace would continue.

3. The competence of the Magistrate to proceed under Section 107 of the Criminal Procedure Code against persons not in possession must depend upon whether as against those persons the conditions specified in the section have been, established.

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