

**The State Vs. Ram Abatar Roy**

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**SooperKanoon Citation :** [sooperkanoon.com/865505](http://sooperkanoon.com/865505)

**Court :** Kolkata

**Decided On :** May-20-1958

**Reported in :** AIR1960Cal451,1960CriLJ899

**Judge :** J.P. Mitter and ;Bhattacharya, JJ.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Section 438

**Appeal No. :** Criminal Ref. 55 of 1956

**Appellant :** The State

**Respondent :** Ram Abatar Roy

**Advocate for Def. :** Kali Mohan Chakrabarty, Adv.

**Advocate for Pet/Ap. :** Sambhunath Banerjee, Adv.

**Disposition :** Reference rejected

**Judgement :**

**J.P. Mitter, J.**

1. This is a Reference under Section 438 of the Code of Criminal Procedure made by the learned Additional District Magistrate of 24-Parganas recommending that an order of a learned Assistant Sessions Judge at Alipore be set aside.

2. Mr. Kali Mohan Chakrabarty appearing OB behalf of the opposite party contends that this Reference is incompetent, because so far as the Additional District Magistrate is concerned, the court of an Assistant Sessions Judge is not an inferior criminal court. This contention appears to us to be unanswerable and is supported by *Queen Empress v. Karamdi*. ILR 23 Cal 250, and *Hiraman De v. Ram Kumar Ain*. ILR 18 Cal 186. We must accordingly reject the Reference and leave it to the State to take such steps as it may be advised to set aside the order of the learned Assistant Sessions Judge.

**Bhattacharya, J.**

3. I agree.

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