

**Queen-empress Vs. Mathews**

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**SooperKanoon Citation :** [sooperkanoon.com/865673](http://sooperkanoon.com/865673)

**Court :** Kolkata

**Decided On :** Jul-21-1884

**Reported in :** (1884)ILR10Cal1022

**Judge :** Field, J.

**Appellant :** Queen-empress

**Respondent :** Mathews

**Judgement :**

**Field, J.**

1. The evidence cannot be given. I must instruct the jury to put out of their minds anything the present witness, being a policeman, may say implicating the prisoner by quoting words alleged to have been used by the prisoner himself.

2. The Standing Counsel (Mr. Phillips). -Your Lordship will hear me on the point. I am entitled to obtain an answer to the question I have asked, even if the reply should bring out any statement or part of a statement made by the accused implicating himself to the witness. The Court will remember that my question is directed to clear up a matter left in doubt by the cross-examination, not an independent enquiry started by the prosecution. The witness used an ambiguous expression 'the time.' I am entitled to fix the precise meaning he attached to these words. For instance, if the accused had said to the Police officer 'I did not kill the

deceased with a knife, but shot him with a pistol; and the cross-examining counsel extracted from the witness the statement that the accused had used the words ' I did not kill the deceased,' surely the prosecution in re-examination is entitled to get from the witness the whole statement made by the accused on the occasion.

**Field, J.**

3. I don't think you would be entitled to have the words in extenso. You might perhaps get the witness to say the accused had qualified that statement, but you could not have the exact words he used if they amounted to an incriminating statement. The law is imperative on the point.

Mr. Gasper

4. As the witness has already given us a part of the statement made by the accused, I prefer the whole statement being given to the jury, as the whole statement shows that he did not strike the deceased with a knife.

**Field, J.**

5. I am afraid I cannot permit that; the law is imperative in excluding what comes from an accused person in custody of the Police if it incriminates him.

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