

**Queen-empress Vs. Durga Sonar**

**Queen-empress Vs. Durga Sonar**

**SooperKanoon Citation :** [sooperkanoon.com/871690](http://sooperkanoon.com/871690)

**Court :** Kolkata

**Decided On :** May-26-1885

**Reported in :** (1885)ILR11Cal580

**Judge :** Mitter and ;Norris, JJ.

**Appellant :** Queen-empress

**Respondent :** Durga Sonar

**Judgement :**

**Mitter and Norris, JJ.**

1. The Sessions Judge has admitted the depositions of the prisoner made before the Joint Magistrate of Monghyr on February 10th, 1885, without any evidence of his identity.

2. At page 54 of the Sessions Record the Judge says: 'The Government Pleader then put in Durga's statement on oath taken on February 10th after the offer of a pardon was made under Section 337 of the Code of Criminal Procedure'--(then follow some words which are quite illegible)'--under Section 339+, of the Code of Criminal Procedure.' And we suppose he thought that under Section 80+ of the Evidence Act it was admissible without proof that the Durga Sonar who made the deposition was the same Durga Sonar then being tried.

3. This was a gross blunder. Without the deposition there is no sufficient evidence to warrant a conviction of the prisoner, and we accordingly set aside the conviction and direct his discharge.

---

Page No. 581, 582 Foot Note

+ [Commitment of person to whom pardon has been tendered.

Section 339: Where a pardon has been tendered under Section 337 or Section 388, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been withdrawn under this section.

No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court]

++ [Presumption on production of record of evidence.

Section 80: Whenever any document is produced before any Court purporting to be a record or memorandum of the evidence or of any part of the evidence given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner, or accused person taken in accordance with law and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume--

that the document is genuine; that any statements, as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement, or confession was duly taken.]

