

(1879) 09 AHC CK 0006

Allahabad High Court

Case No: None

Empress of India

APPELLANT

Vs

Kashi

RESPONDENT

Date of Decision: Sept. 5, 1879

Citation: (1880) ILR (All) 447

Hon'ble Judges: Straight, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Straight, J.

I regret that I feel myself prevented by the terms of Section 215, Criminal Procedure Code, from adopting the suggestion of the Sessions Judge. The words of the explanation are plain and positive, and establish as a condition precedent to a discharge, the examination of all the witnesses named. It is impossible for me to say whether Mr. Carter was right or wrong in the view he took of the case, but he was clearly in error in determining it without satisfying the directions of Section 215. This point has already been made the matter of decision twice in this Court in the cases of Empress v. Tantia (Legal Remembrancer N.W.P. vol. i, 11 and Empress v. Bhodram (unreported) decided 28th July 1879. In both of those I followed the authority of Empress v. Himatulla ILR 1998 Cal 389 with which I may add I entirely agree. I must therefore set aside Mr. Carter's order of discharge, and direct him to reopen the case and examine the further witnesses named, and then pass such order in the matter as the whole of the evidence may appear to call for.