

(1878) 06 CAL CK 0010

Calcutta High Court

Case No: None

In Re: Petition of
Hurro Soondery
Chowdhrair

APPELLANT

Vs

RESPONDENT

Date of Decision: June 24, 1878

Citation: (1879) ILR (Cal) 20

Hon'ble Judges: Broughton, J; Ainslie, J

Bench: Division Bench

Judgement

Ainslie, J.

On the 12th of this month we made an order directing the Magistrate to issue a commission for the examination of Hurro Soondery Chowdhrair, at the same time giving him leave to show cause why the order should not be withdrawn.

2. The Magistrate has now sent up a letter addressed to the Registrar of this Court. This is not the proper form in which he ought to have shown cause. If he wished to show cause, he should have applied to the Legal Remembrancer to cause an appearance to be made for him in Court.

3. We might deal with this matter as if the Magistrate had not made any appearance at all, but we think it better, under the circumstances, to dispose of the rule on its merits.

4. The reasons assigned by the Magistrate in his letter appear to us to be wholly insufficient. It may be that this lady, as well as any other person under examination, may make statements which are not wholly true; but the Magistrate can guard against that by deputing some person thoroughly instructed for the purpose of examining on any fresh matters that may arise on her answers to written interrogatories, if it is necessary in the case to issue written interrogatories at all. At any rate, we cannot assume beforehand that the witness will make false statements.

5. There is in the letter of the Magistrate some indication that an attempt was to be made to make the witness criminate herself by her answer. This ought not to be done, and is a further reason for directing that she should be examined by commission, in order that what she may give may be carefully weighed by her, and not given without full consideration.

6. The rule is made absolute.