

# CALCUTTA HIGH COURT

Anand Lal Bera

Vs

Empress

(Prinsep and Tottenham ,JJ.)

02.08.1883

## JUDGMENT

### **Prinsep, J.**

1. The petitioners were convicted under Section 183 of the Penal Code for offering resistance to an attachment of the property of one Tulseeram Bera, which the Deputy Collector had ordered in execution of a certificate under the Public Demands Recovery Act (Beng. Act "VID of 1880. The warrant under which the peon acted stated that the return should be made on or before the 3rd February.
2. The resistance, it has been found in the present case, was offered on the 4th February, and it is contended before us that under such circumstances, no lawful order was in force, and consequently the prisoner has committed no offence. It appears to us that, having regard to the terms of the second Clause of Section 251 of the Code of Civil Procedure, this objection is fatal to the conviction, and that the conviction, therefore, must be set aside and the fine, if paid, refunded.