

APPELLATE CRIMINAL.

Before Mr. Justice Jackson and Mr. Justice Tottenham.

1879
Nov. 28.

IN THE MATTER OF THE EMPRESS v. GRISH CHUNDER
TALUKDAR.*

*Witness called by the Court—Right to cross-examine—Evidence Act
(1 of 1872), s. 165.*

Witnesses summoned on behalf of the prosecution, and not called, ought to be placed in the box for cross-examination, in order that the defence may have the opportunity of exercising this right, and *a fortiori*, if such a witness is called and examined by the Court under s. 165 of the Evidence Act, the prisoner should be allowed to cross-examine.

A WITNESS for the prosecution, examined by the Magistrate in the enquiry which preceded the committal of this case to the Court of Sessions, was not called at the trial before the latter Court. The prosecution did not submit him for cross-examination, but at the close of the case for the defence the presiding Judge himself called and examined this witness, but refused to permit his cross-examination, on the ground that, under s. 165 of the Evidence Act, no cross-examination could follow upon a question put by the Court.

The accused appealed to the High Court.

Mr. H. Bell for the appellant. — The accused was entitled to cross-examine this witness, see *Meer Snjad Ali Khan v. Lalla Kashinath Dass* (1) and *Tarini Churn Chowdhry v. Sarola Sundari Dasi* (2).

Baboo Ram Churn Mitter for the Crown.

JACKSON, J. (after dealing with the facts of the case, continued):—Then as to the alleged defect in the procedure of the Court of Session, we have no doubt that the Sessions Judge was wrong in refusing to permit the cross-examination of the witness called by the Court. The ordinary practice in

* Criminal Appeal, No. 732 of 1879, against the order of T. T. Allen, Esq. Sessions Judge of Rajshahye, dated the 10th October 1879.

(1) 6 W. R., 181.

(2) 3 B. L. R., A. C., 146, 158.

properly constituted Courts is, that where a witness for the prosecution is not called on the part of the Crown, he is placed in the witness-box in order that the defence may have an opportunity of cross-examining him; and certainly, where the Judge thought it necessary to call one of these witnesses for the purpose of eliciting some facts which he thought material for the prosecution, the prisoner ought to have been allowed an opportunity of putting any question that he thought necessary in cross-examination.

1879
IN THE
MATTER OF
THE EMPRESS
v.
GRISH
CHUNDER
TALUKDAR.

APPELLATE CIVIL.

Before Mr. Justice Jackson, Mr. Justice Mitter, and Mr. Justice McDonell.

PUDDO KUMAREE DEBEE AND ANOTHER (PLAINTIFFS) v. JUGGUT KISHORE ACHARJEE AND ANOTHER (DEFENDANTS).*

1879
May 6.

Hindu Law—Adoption—Succession—Collateral Succession—Adopted Son.

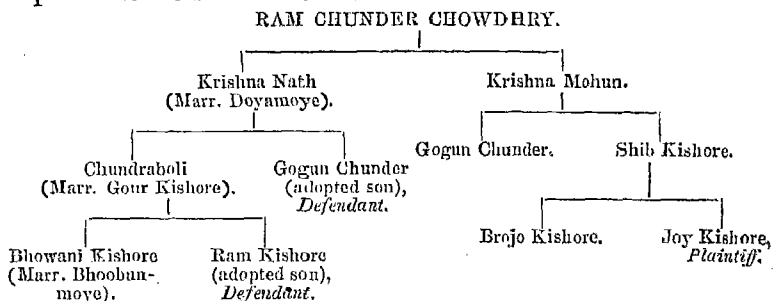
The rights of an adopted son, unless curtailed by express texts, are in every respect similar to those of a natural born son.

The adopted son succeeds to the *sapinda* kinsmen of his father, and as regards the relationship of *sapinda*, there is no difference between the adopted and the natural born son.

Sumbhoo Chunder Chowdhry v. Naraini Debi (1) cited and followed.

Bhoobun Moye Debi v. Ram Kishore Archarj Chowdhry (2) discussed and explained.

THE following genealogical table will be found necessary to explain the facts of this case :—



* Regular Appeal, No. 277 of 1876, against the decree of Baboo Nobin Chunder Ghose Roy Bahadur, Second Subordinate Judge of Mymensingh, dated the 10th of August 1876.

(1) 3 Knapps' P. C., 55; S. C., 1 Sath., P. C. C., 25.

(2) 10 Moore's I. A., 279.