

1872

KHASRO  
MANDAR  
v.  
PREMLAL.

to be made according to the English calendar, and there being nothing express in the Act, the custom of the district must be followed.

The Judgment of the Court was delivered by—

BAYLEY, J.—We think this case must be remanded to the Lower Appellate Court for trial on the merits.

It is found by the Lower Appellate Court as a fact that the cause of action arose from the 1st Asar, when it is the custom of the people of that part of the country to begin cultivation. S. 27, Act VIII of 1869, B. C., merely says that the suit is to be instituted within one year of the cause of action. It does not provide according to what calendar that year is to be calculated. On the contrary, cl. 2, s. 2. Act I of 1868, provides that “years” and “months” are to be calculated according to the British calendar, unless the contrary be expressed. Now, although that is an Act expressly referring to Acts passed by the Governor-General in Council, we think that, in the absence of any provision in the Bengal Council Act, the interpretation given in Act I of 1868 must be followed, and following that interpretation, the present suit is in time.

The judgment of the Lower Appellate Court is accordingly reversed, and the case remanded for trial on the merits.

The costs of this appeal and of the Lower Appellate Court will abide the ultimate result.

1872  
Sept. 21.

*Before Mr. Justice Macpherson.*

THE QUEEN v. TARINICHARAN DEY AND OTHERS.

*Evidence Act (I of 1872), s. 32, cl. 2—Letter of Advice.*

THE prisoner, Tarinicharan, was charged with forging for the purpose of cheating and using as genuine a forged railway receipt or bill of lading, for the purpose of obtaining from the East Indian Railway Company certain goods which had been entrusted to the Company to be carried from Delhi to Calcutta. The *Standing Counsel* for the prosecution sought to prove the delivery of the goods to the Railway Company by putting in a letter from the consignor at Delhi to his partner in Calcutta, advising the despatch of the goods. He submitted that the letter was a “document used in commerce, written or signed” by a person “whose attendance could not be procured without an amount of delay and expense which, under the circumstances of the case,” would be unreasonable, and therefore that it was relevant under s. 32, cl. 2 of the Indian Evidence Act (I of 1872). The Court refused to receive the evidence, and intimated a doubt whether such a letter would, under any circumstances, be receivable, since it was beyond the instances specified in the section.