

1877.
March 2.
THAGARA' YA
MUDALI
v.
MARIAPPA
PILLAI.

the new Act has made the payment of interest a mode of extending the period. The Act does not expressly require that the payment should have been made after the date on which it came into force; and we see no reason why a payment of interest before that date should not be sufficient.

We shall therefore reverse the decree of the Subordinate Judge, and remand the suit for decision upon the merits.

We shall make no order for costs in this Special Appeal.

Decree reversed.

APPELLATE CRIMINAL.

Before Mr. Justice Innes and Mr. Justice Kernan.

IN THE MATTER OF RAMINIHI NAYAR, PETITIONER. (1)

Village Accountant—Village Munsif's Peon—Indian Penal Code, section 217—

Direction of law—Criminal Procedure Code, section 90.

Where a Village Accountant and a Village Munsif's Peon had been convicted under section 217 of the Indian Penal Code of having disobeyed the direction of law contained in section 90 of the Criminal Procedure Code,—

Held that they were wrongfully convicted as not bearing the character which raises the obligation under the latter section.

The direction of law mentioned in section 217, Indian Penal Code, means a positive direction of law such as those contained in sections 89 and 90 of the Criminal Procedure Code, and cannot be made to extend to the more general obligation on every subject not to stifle a criminal charge.

Mr. Shephard for the petitioner.

The Court delivered the following

JUDGMENT :—The petition is by 1st prisoner, but we think on the grounds now to be stated that both prisoners have been wrongly convicted under section 217 of the Indian Penal Code. The conviction under the section is based upon the allegation that there was a disobedience on the part of prisoners of a direction of law in having hushed up a charge of theft. The 1st prisoner is the Accountant of the village and the 2nd prisoner is a peon under the orders of the Adhigari or Village Munsif.

The direction of law which they are assumed to have disobeyed is that contained in section 90 of the Criminal Procedure Code; but to come within the section they must bear the character

(1) Criminal Petition, No. 40 of 1877, against the proceedings of H. M. Winterbotham, Special Assistant Magistrate of Malabar, held in Appeal No. 15 of 1876.

which raises the obligation under that section. 1st prisoner in his capacity of Village Accountant is neither the head of the village nor a person engaged in the collection of the public revenue, nor is there evidence to show that he comes within any of the other descriptions of persons on whom the section imposes an obligation. It is obvious that the section was not intended to impose any obligation on village peons as such.

The direction of law mentioned in section 217, Indian Penal Code, means, in our opinion, a positive direction of law, such as those contained in sections 89 and 90 of the Criminal Procedure Code, and cannot be made to extend to the more general obligation by which every subject is bound not to stifle a criminal charge. There is no evidence upon which the conviction might be upheld as a conviction under Section 217, Indian Penal Code, upon other grounds than those upon which the Magistrates have proceeded in the Courts of First Instance and Appeal. Though possibly the prisoners may be otherwise criminally or departmentally liable, the conviction under this section cannot be maintained. We set it aside and direct the refund of the fines, if levied.

Conviction quashed.

APPELLATE CIVIL.

Before Sir W. Morgan, C.J. and Mr. Justice Innes.

THE ADMINISTRATOR-GENERAL OF MADRAS, AS ADMINISTRATOR OF THE SEVERAL ESTATES AND EFFECTS OF EDWARD JOHN HAWKINS, DECEASED (PLAINTIFF), v. F. N. HAWKINS AND FIVE OTHERS (DEFENDANTS).

Administrator-General—Barred debt—Payment.

The Administrator-General of Madras is authorized to pay a barred debt,

APPEAL from a decision of Kernan, J., dated the 11th December 1876, in Original Suit No. 303 of 1876.

The facts are sufficiently stated in the judgment appealed from, which was as follows:—

KERNAN, J.—The plaintiff, the Administrator-General of Madras, filed the plaint, praying that his accounts as adminis-

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IN THE MATTER
OF
RAMSINGH
NAYAR.

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