

APPELLATE CRIMINAL.

Before Mr. Justice Hutchins.

THE QUEEN-EMPRESS

against

PILLALA.*

1885.
October 6.*Civil Procedure Code, s. 258—Satisfaction of decree not certified—Fraudulent execution—Charge under Penal Code, s. 210—Proof of payment.*

Section 258 of the Code of Civil Procedure which provides that no payment or adjustment of a decree not certified to the Court, as in the said section provided, shall be recognized by any Court, does not debar a Criminal Court from recognizing such payment where the decree-holder is charged with fraudulently executing a satisfied decree.

THIS was a case referred to the High Court under s. 438 of the Code of Criminal Procedure by J. R. Daniel, Sessions Judge of Ganjam.

The facts are set out in the judgment of the Court.

The accused did not appear.

HUTCHINS, J.—The accused was charged under s. 209 of the Indian Penal Code with having made a false claim in a Court of Justice. Apparently the offence, if any, was one falling under s. 210 rather than 209, in that he fraudulently caused, or attempted to cause, a decree to be executed after it had been satisfied.

But the Principal Assistant Magistrate (H. W. Foster) acquitted the accused on the ground that he was precluded by s. 258 of the Civil Procedure Code from recognizing in any way the alleged payment made in satisfaction of the decree, because it had not been duly certified. The Civil Procedure Code was enacted to regulate the procedure of the Courts of Civil Judicature, and unless the contrary clearly appears, nothing therein contained should be deemed to affect the Criminal Courts. I am clearly of opinion that the acquittal on the ground stated is wrong, and I therefore set it aside and direct the Principal Assistant Magistrate to dispose of the case on the merits.

* Criminal Revision Case 368 of 1885.