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HAJEE SYED
MAHOMMED
v.
MUSRAMUT
ASHRUTOON-
NISSA.

the plaintiff, according to his own case, waits to the very last minute before he institutes his suit, though his claim might have materially affected the disputes between the defendant and Mr. Wilson. The plaintiff has himself to blame if now he is not entitled to a decree.

We cannot dismiss this case without remarking that the "paper-book" has been prepared without due regard to the interests of the parties. The vakeels might have agreed to print in the space of half a sheet such items of the accounts as were necessary for the decision of the case, instead of which there have been no less than 70 or 80 pages of unnecessary accounts printed.

We dismiss plaintiff's appeal with costs, and we allow the cross-appeal but without costs.

The result is that plaintiff's suit is dismissed.

Appeal dismissed.

ORIGINAL CIVIL.

Before Mr. Justice Wilson.

PAYN v. THE ADMINISTRATOR-GENERAL OF BENGAL AND
OTHERS.

1880
April 29.

High Court—Extraordinary Original Jurisdiction—Transfer of Suit—Letters Patent, cl. 13—Grounds of Transfer.

A suit for an account and for other relief relating to immoveable property situated without the local limits of the ordinary original civil jurisdiction of the High Court, was instituted against several defendants in the Court of the Subordinate Judge of the district within which the property was situated. Upon a petition by one of the defendants, consented to by most of the other defendants and by the plaintiff, the High Court ordered the suit to be removed from the Court in which it had been instituted, to be tried and determined by the High Court as a Court of Extraordinary Original Jurisdiction, on the grounds, that the parties and the witnesses resided in Calcutta, that it would be cheaper to try the suit in Calcutta, and that all parties appearing on the motion desired a transfer.

THIS was a suit for an account, and for other relief relating to immoveable property situated in the district of Hooghly.

The suit had been instituted in the Court of the Subordinate Judge of Hooghly, against the Administrator-General, as the administrator of the estate of one Donald, McCorkindale, deceased, and several other persons. The defendant, the Administrator-General, now applied by petition to the High Court to have the suit removed from the Hooghly Court to the High Court, to be tried and determined by that Court as a Court of Extraordinary Original Jurisdiction. The petition stated, that neither the plaintiff, nor any of the defendants, resided or carried on business, or personally worked for gain, within the jurisdiction of the Court of the Subordinate Judge of Hooghly; but that, on the contrary, they all resided in the town of Calcutta, within the original civil jurisdiction of the High Court, but that the plaintiff's cause of action arose within the jurisdiction of the Hooghly Court; that the matters in issue in the suit might involve important and difficult questions of English law, and the construction of deeds of mortgage, assignments, and deeds of further charge, all drawn in the English form; that the evidence required for proof of the mortgage-deeds, deeds of assignment, and deeds of further charge, would have to be obtained wholly from witnesses living in Calcutta within the ordinary original civil jurisdiction of the High Court; that the plaintiff, who alleged himself to be suing on behalf of a mortgagee in possession, was liable to account to the petitioner; and that the evidence necessary to have such account fully and satisfactorily taken, was wholly to be obtained from witnesses living in Calcutta, and that the account could not be fully and satisfactorily taken by the Hooghly Court.

Notices of the intended application were served upon the plaintiff and upon all the defendants, most of whom consented to the transfer being made.

Mr. *O'Kinealy* for the petitioner.

Mr. *Hill* for the plaintiff.

Mr. *Jackson* for the consenting defendants.

WILSON, J.—The order of transfer may be made on the ground that the parties and the witnesses reside in Calcutta;

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that it will be cheaper to try the suit here; and that all parties appearing on the motion desire a transfer. These reasons to be recorded.

Application granted.

Attorneys for the petitioner: Messrs. *Carruthers and Jennings.*

Attorneys for the plaintiff: Messrs. *Sanderson & Co.*

Attorneys for the defendants: Messrs. *Carruthers and Jennings.*

APPELLATE CRIMINAL.

Before Mr. Justice Morris and Mr. Justice Prinsep.

ROSHUN DOOSADH AND TWO OTHERS v. THE EMPRESS.*

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Previous Conviction—Irrelevant Evidence of Character—Quantum of Punishment—Evidence Act (1 of 1872), s. 54.

In charging the jury upon the trial of a prisoner for being dishonestly in the possession of stolen goods, the Judge directed the jury to consider the proof of previous convictions for theft as evidence from which inference might fairly be drawn as to the character of the accused.

Held, that this amounted to a misdirection; for though s. 54 of the Evidence Act declares that "the fact that the accused person has been previously convicted of an offence is relevant," yet the same section also declares that "the fact that he has a bad character is irrelevant," and that the evidence was irrelevant and inadmissible.

Except under very special circumstances, the proper object of using previous convictions is to determine the amount of punishment to be awarded, should the prisoner be convicted of the offence charged.

THE facts of this case sufficiently appear from the judgment, which was delivered by

PRINSEP, J. (MORRIS, J., concurring).—We think that there must be a new trial in this case.

* Criminal Appeal, No. 795 of 1879, against the order of J. F. Brown, Esq., Sessions Judge of Patna, dated the 30th September 1879.