execution of which the questions in dispute have arisen, was for money only, yet as at the time the respondent obtained from the Raja the taluk on mortgage, the property had been attached on account of the appellants' decree; the respondent who holds the mortgage which is subject to the said lien, must be held to stand in a position substantially similar to that occupied by the purchasers of the equity of redemption after the mortgage decrees in the Calcutta and Allahabad cases referred to above.

The contention, therefore, that the respondent is not a representative of the judgment-debtor, the Raja, within the meaning of section 244 and the preliminary objection founded thereon that no appeal lies are, in our opinion, unsustainable.

The next question argued is whether the North Arcot District Court had power to sanction agreements of the kind referred to in section 257 (*a*) of the Civil Procedure Code. Clearly it had not, inasmuch as it was not the Court which passed the decree. The words of the section absolutely confine the power to grant the sanction to Courts which pass the decree.

The view taken by the District Judge on this point is right.

The appeal fails and is dismissed with costs.

APPELLATE CRIMINAL.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, and Mr. Justice Benson.

QUEEN-EMPRESS

v.

SESHADRI AYYANGAR.*

1896. October 29.

Criminal Procedure Code—Act X of 1882, *s.* 487—*Judicial proceedings.*

A Magistrate, who has refused to set aside an order sanctioning a prosecution on the charge of perjury, has no jurisdiction under Criminal Procedure Code, section 487, to try the case himself.

APPEAL under section 417 of the Code of Criminal Procedure against the judgment of acquittal passed in Criminal Appeal No. 9 of 1896.

* Criminal Appeal No. 370 of 1896.

QUEEN-EMPRESS v. SESHADRI AYYANGAR.

The accused was charged under section 193, Indian Penal Code, for giving false evidence in a judicial proceeding.

The Joint Magistrate of North Arcot, having previously rejected an application preferred to him for the revocation of the sanction, given under Criminal Procedure Code, section 195, by the Magistrate before whom the offence was alleged to have been committed, tried the case and convicted the accused, who thereupon appealed to the Sessions Court. The Sessions Judge held with reference to section 487 of the Code of Criminal Procedure and *In re Madhub Chunder Mozumdar* v. *Novodeep Chunder Pundit*(1) that the Joint Magistrate under the circumstances had no jurisdiction to try the case. He accordingly set aside the conviction and acquitted the accused.

This appeal was preferred on behalf of Government.

The Acting Public Prosecutor (Mr. *N. Subramanyam*) for the Crown.

Seshagiri Ayyar for accused.

JUDGMENT.—The order of the High Court, dated 28th January 1896, on which the appellant relies, was passed mainly on the ground that there had been undue delay in making the application for transfer. Section 487, Criminal Procedure Code, was not referred to in the petition then before the High Court, nor in the order of the High Court, and was apparently not considered.

On the merits we think that it is impossible to say that an order whether original or appellate granting or refusing or revoking sanction under section 195, Criminal Procedure Code, is not a "Judicial proceeding" as defined in section 4 of the Act, and looking to the wide terms "brought under his notice" used in section 487, we are of opinion that the Magistrate who declined to revoke the sanction was precluded from himself trying the case.

The Sessions Judge was, therefore, right in ordering a new trial. We dismiss this appeal.

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(1) I.L.R., 16 Calc., 121.