

punishable under sections 211 and 193, Indian Penal Code, is *ipso facto* debarred from also granting compensation under section 560, Criminal Procedure Code, to the person falsely accused. The sanction to prosecute for making a false charge is granted on grounds of public policy for an offence against public justice. The compensation is granted partly in order to deter complainants from making vexatious and frivolous complaints, and partly in order to compensate the accused for the trouble and expense to which he has been put by reason of the false complaint. We can see no ground in law or reason why compensation should not be granted in a case in which the Magistrate also directs a prosecution for making a false charge. The case (*Queen v. Rupan Rai*(1)) relied on by the learned Judges appears to us to be an authority directly opposed to their conclusion.

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However that may be, the interpretation of the law by this Court to which the Magistrate refers is clear and is opposed to the view recently taken by the Calcutta High Court. The Magistrate is bound to take the law as it is laid down by this Court, and ought not to rely on the decision of another High Court when it is opposed to the decision of this Court.

We set aside the order of the Head Assistant Magistrate and affirm that of the Second-class Magistrate.

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## APPELLATE CIVIL.

*Before Mr. Justice Davies and Mr. Justice Boddam.*

KARUPPANAN AMBALAM (PLAINTIFF),

v.

RAMASAMI CHETTI (DEFENDANT).\*

1897.  
November  
12.

*Provincial Small Cause Courts' Act—Act IX of 1887, sched. II, art. 35—Suit for compensation for illegal attachment—Suit to recover money paid in excess.*

The plaintiff sued to recover from his landlord a sum which the defendant had collected in excess of what was properly due to him by distraint of the plaintiff's cattle :

*Held*, that the suit was cognizable by the Small Cause Court.

CASE stated under Civil Procedure Code, section 646, by S. Russell, District Judge of Madura, in Original Suit No. 431 of 1897.

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(1) 6 B.L.R., 296.

\* Referred Case No. 27 of 1897.

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AMBALAM  
v.  
RAMASAMI  
CHETTI.

The case was stated as follows :—

“ Under the provisions of section 646-B of the Code of Civil Procedure, I have the honour to submit, for the orders of the High Court, the records in Original Suit No. 431 of 1897 on the file of the District Munsif of Sivaganga (Small Cause No. 400 of 1897, East Subordinate Court, Madura), as the District Munsif has failed to exercise a jurisdiction vested in him by law.

“ The plaintiff in the suit is the tenant and the defendant is the landlord. Plaintiff sues to recover from the defendant a sum of Rs 138-10-5, which the defendant has collected in excess of what is properly due to him upon demand and distraint of plaintiff's cattle.

“ The suit was originally filed in the East Subordinate Court, Madura, on the small cause side in Small Cause No. 400 of 1897. The Subordinate Judge returned the plaint for presentation to proper Court, holding that it was not triable by the Court of Small Causes under article 35, clause (j), of second schedule to Act IX of 1887. Secondly, the plaint was presented in the District Munsif's Court of Sivaganga, where it was filed as Original Suit No. 431 of 1897. The District Munsif in his turn returned the plaint for presentation to proper Court, holding that the suit was a suit for money and not triable on the Original Side—*vide Raghunoni Audhikary v. Nilmoni Singh Deo*(1).

“ I am of opinion that the case should be entertained on the Original Side, as there has been alleged excessive distraint under article 35, clause (j), of second schedule to Act IX of 1887.”

The plaintiff was not represented.

V. Krishnasami Ayyar for defendant.

JUDGMENT.—The suit was to recover back money paid in excess of the amount due under pressure. It was not a suit to recover compensation for illegal, improper or excessive distress or attachment within the meaning of article 35, clause (j), of the second schedule of the Provincial Small Cause Courts' Act of 1887. This has been held to apply only to cases where the suit is brought to recover damages for the tort (*Dewan Roy v. Sundar Tewary*(2)) and not for money paid in excess, and with this ruling we agree. The suit is, therefore, one cognizable by a Court of Small Causes as the Munsif held.

(1) I.L.R., 2 Calc., 393.

(2) I.L.R., 24 Calc., 163 at p. 165.