

## APPELLATE CRIMINAL.

Before Mr. Justice Benson and Mr. Justice Moore.

KING-EMPEROR

v.

KRISHNAYYA.\*

*Criminal Procedure Code—Act V of 1898, s. 421—Summary dismissal of appeal—Judgment.*

A Court, when dismissing an appeal summarily under section 421 of the Code of Criminal Procedure, is not bound to write a judgment in conformity with the provisions of section 367.

JUDGMENTS in two criminal appeals referred to the High Court under section 438 of the Code of Criminal Procedure as not being such as are required by section 367 of that Code. The judgments were in the following terms:—"After perusing the judgment and petition of appeal, I see no reason for interfering with the decision of the lower Court and reject the appeal summarily under section 421, Code of Criminal Procedure." The Acting Sessions Judge referred the judgments to the High Court.

The parties were not represented.

JUDGMENT.—The Sessions Judge will be informed that there is nothing in the Code of Criminal Procedure which requires a Court, when dismissing an appeal summarily under section 421 of that Code to write a judgment in conformity with the provisions of section 367. This has been so decided by all the High Courts, by this Court in *Proceedings of the Madras High Court, dated 18th April 1883*(1), and by the other High Courts in the cases of *Rash Behari Das v. Balgopal Singh*(2), *Queen-Empress v. Warubai*(3) and *Queen-Empress v. Nannhu*(4).

In the last-mentioned case the Full Bench decided that it was advisable for the Court to state its reasons in view of the possibility of a petition for revision.

There is nothing in Rule No. 7 of the rules printed at pages 167 to 175, Criminal Rules of Practice, 1896, in conflict with the

\* Criminal Revision Case No. 406 of 1901, referred for the orders of the High Court, under section 438 of the Criminal Procedure Code, by J. H. Munro, Acting Sessions Judge of Kistna, in Criminal Appeals Nos. 46 and 47 of 1901.

(1) Weir's Cr. Rul., p. 1009.

(2) I.L.R., 21 Calc., 92.

(3) I.L.R., 20 Bom., 540.

(4) I.L.R., 17 All., 241.

above decisions. The meaning of that rule is that, in all cases other than those dealt with under section 421, Criminal Procedure Code, the reasons for the decision should be given. The rule as originally passed required such reasons only in cases where the judgment appealed against was modified or reversed, but it was pointed out that this was opposed to section 367 of the Code and the rule was then amended in its present form.

KING-  
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## APPELLATE CIVIL.

*Before Mr. Justice Benson and Mr. Justice Bhashyam Ayyangar.*

SAMBASIVA AYYAR (PLAINTIFF),

v.

VDINADASAMI AND OTHERS (DEFENDANTS—PURCHASERS).\*

1901,  
November 25.

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*Civil Procedure Code—1st XIV of 1882, s. 307—Default of purchaser at Court-sale to pay full amount—Forfeiture.*

Section 307 of the Code of Civil Procedure is imperative and must be given effect to.

Where a purchaser at a Court-sale makes default in paying the full amount of the purchase money, the deposit must be forfeited. The fact that the decree-holder and the judgment-debtor do not ask for a re-sale, but consent to the original sale being allowed to stand, is no reason why the Government should forego the forfeiture.

CASE referred under section 617 of the Code of Civil Procedure. The facts are contained in the following letter of reference:—“In execution of the decree in Original Suit No. 69 of 1900 on my Court file, certain immoveable property advertised for sale was purchased at such sale on the 23rd November 1900 by a third party for Rs. 1,415. The purchaser at once deposited 25 per cent. of the purchase money, *i.e.*, Rs. 354, and going to his village fell ill and failing to deposit the balance within the time allowed by section 307 of the Code of Civil Procedure, appeared on 14th December with such balance and petitioned to be allowed to deposit the same in Court. Neither the decree-holder nor the debtor applied for a fresh sale and as the purchaser's case was a

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\* Referred Case No. 8 of 1901, referred for the orders of the High Court under section 617 of the Civil Procedure Code, by P. Narayana Chariar, District Munsif of Kumbakonam, in Original Suit No. 69 of 1900.