

to meet should be given and the party permitted to adduce evidence though section 195 contains no such provision. We think that he should be allowed to call witnesses, for until the Magistrate has heard them he cannot say whether their evidence will not help him to decide (firstly), the propriety of such an order and (secondly) the extent of the culpability of the complainant to be expressed in the amount of the compensation. *Queen-Empress v. Chiragh Ali*(1), relied on by Mr. Satyanarayana (who appears for the person who received compensation), was a case where the accused was acquitted, and such acquittal in a summons case could only be after all the evidence for the prosecution was taken, and in a warrant case after charge was framed. We therefore set aside the order for compensation.

APPALANARA-
SAYYA
BHUKTA
v.
EMPEROR.

N.R.

APPELLATE CRIMINAL.

Before Mr. Justice Oldfield and Mr. Justice Hughes.

SOMANNA (ACCUSED), PETITIONER,

v.

CHELLAPATHI RAO (COMPLAINANT), RESPONDENT.*

1920,
September, 27.

Workmen's Breach of Contract Act (XIII of 1859)—Compositor, an artificer—Contract to gradually work out advance from wages, a contract under the Act.

A compositor is an artificer if not a workman within Act XIII of 1859. An agreement by which an advance given to an artificer is to be repaid by him by periodical deductions from his wages does not merely create a relation of debtor and creditor but is a contract between master and workman within the meaning of the Act.

PETITION under sections 435 and 439 of the Code of Criminal Procedure to revise the order of G. JAMES, Second-Class Magistrate of Ellore, in Calendar Case No. 223 of 1920.

The complainant is the proprietor of the Manjuvani Press, Ellore. The accused entered into a contract with the complainant

(1) (1898) 13 A.W.N., 198.

* Criminal Revision Case No. 386 of 1920 and Criminal Revision Petition No. 271 of 1920.

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binding himself to work in the latter's press as a compositor under the following agreement:—

"I have agreed to work in your office as a compositor, for a monthly pay of Rs. 17. I have already received from you Rs. 10 as an advance. I have agreed to receive Rs. 40 at the time of the registration of the document before the Sub-Registrar. In all Rs. 50 (fifty rupees) has been received by me in the aforesaid manner. The said advance amount may be deducted by you from the pay you give me, at Rs. 4 every month. Till the entire amount of your advance has been discharged in this manner, that is, for one year and fifteen days, I shall work under you and discharge the amount without praying for any increase in my pay."

The contract was registered on 8th May 1920, and the accused after working for a few days stopped away from 18th May 1920. The proprietor complained under the Workmen's Breach of Contract Act. The accused pleaded that he received Rs. 50, not as advance for the work but as a loan, and that he stopped from work as the complainant used abusive language towards him. The lower Court found both the points against the accused, and passed an order under section 2 of the Act. The accused preferred this Revision Petition.

K. Ramnath Shenai for the accused.—A compositor does not come within the Act; he is neither an artificer, nor a workman, nor a labourer. Only people who do manual labour are within the Act. A compositor has to do more intellectual than manual work: see *Kunhi Moidin v. Chamu Nair*(1). Moreover, the agreement is not a 'contract' within the Act, because the advance is not one on account of the work to be done but is a loan: see *In re Abdul Rasul Ismailji*(2) and Madras High Court Proceedings No. 39 (3).

V. L. Ethiraj for the Public Prosecutor and *V. Suryanarayana* for the complainant were not called upon.

The Court delivered the following JUDGMENT:—

The first question argued in this Revision Petition is whether the petitioner, who is a compositor, is an artificer, workman or labourer within the meaning of Act XIII of 1859. A compositor is defined in the Century Dictionary

(1) (1918) I.L.R., 41 Mad., 182, 187.

(2) (1911) 13 Bom. L.R., 548; (1911) 11 I.C., 586. (3) (1880) 1 Weir, 661.

as one who sets up type. Mr. Shenai on petitioner's behalf contends that because he has to use his brains to some extent in order to set type he does not come within the scope of the Act. Mr. Shenai has relied on the judgment of AYLING, J., in *Kunhi Moidin v. Chamu Nair*(1); but that is not in point. We think that a compositor in ordinary parlance would be regarded as an artificer if not as a workman. This point therefore fails.

SOMANNA
v.
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The remaining argument is that Exhibit A, the agreement between the petitioner and his master, simply creates a relation of debtor and creditor, not of a master with a workman who has received an advance. Reliance is placed on the construction put by the Courts on what are alleged to be similar agreements: *In re Abdul Rasul*(2) and Madras High Court Proceedings No. 39 (3). Neither of these cases is in our opinion analogous to the present. In the first, the last sentence of the agreement provided quite generally, for payment of the advance made within a period which was specified, although no doubt, from the workman's wages. In the second, similarly the deposit or loan was to be refunded at the close of the period of the contract. In neither was there anything resembling the provision in Exhibit A, by which the advance to the workman is to be repaid by periodical deductions from the amount of his wages and should in any case be worked out by him.

The Revision Petition fails and is dismissed.

N.R.

APPELLATE CIVIL—FULL BENCH.

Before Sir John Wallis, Kt., Chief Justice, Mr. Justice Ayling and Mr. Justice Krishnan.

RAMA SAHU (SECOND DEFENDANT), APPELLANT,

v.

GOWRO RATHO (PLAINTIFF), RESPONDENT.*

1920,
September 8,
9 and 10.

Transfer of Property Act (IV of 1882), ss. 4 and 107—Indian Registration Act (XVI of 1908), ss. 17 and 49—Unregistered lease for six months—Whether admissible to prove tenancy.

Section 49 of the Registration Act applies only to instruments which are required to be registered by section 17 of that Act, and is not applicable to

(1) (1918) I.L.R., 41 Mad., 182, 187.

(2) (1911) 13 Bom., L.R., 548; (1911) 11 I.C., 586. (3) (1860) 1 Weir, 681.

* Second Appeal No. 2051 of 1918.