

order refusing the application under the definition of a "decree." It would certainly be anomalous that there should be a second appeal to the High Court by the unsuccessful applicant but that no second appeal lies to the High Court by the person who is ejected from the property. In my opinion the application is not a suit and the order refusing it is not a decree. Therefore I must dismiss the appeal as I hold it does not lie. The respondents will have their costs.

BALESU
D.
SANTASAYYA.

A.S.V.

APPELLATE CRIMINAL.

Before Mr. Justice Burn.

IN RE HARI SINGH (ACCUSED), PETITIONER.*

1933,
March 31.

*Criminal Procedure Code (Act V of 1898), sec. 162—
Chapter VIII—Enquiry under—Scope of—Statements to
Police—Admissibility of.*

The Police when investigating a case under the preventive sections of the Criminal Procedure Code are not acting under section 162 of the Code. An enquiry under Chapter VIII of the Code is not an enquiry into an "offence", and section 162 cannot be used to shut out statements given to the police by persons who are afterwards called as witnesses.

PETITION under sections 435 and 439 of the Code of Criminal Procedure, 1898, praying the High Court to revise the judgment of the Court of Sessions of the Coimbatore Division, dated 4th July 1932 and passed in Criminal Appeal No. 19 of 1932 preferred against the judgment of the Court of the Joint Magistrate of Coonoor in Miscellaneous Case No. 1 of 1932.

M. Ranganatha Sastri and N. S. Mani for petitioner.
Public Prosecutor (L. H. Bewes) for the Crown.

* Criminal Revision Case No. 848 of 1932.

HARI SINGH,
In re.

ORDER.

The sole ground on which this petition was admitted was that statements recorded by the Police under section 162, Criminal Procedure Code, had been used by the lower Courts as substantive evidence. But the Police when investigating a case under the *preventive* sections of the Criminal Procedure Code are *not* acting under section 162, Criminal Procedure Code. Moreover the inquiry before the learned Joint Magistrate under Chapter VIII of the Criminal Procedure Code was not an inquiry into an "offence" and therefore section 162, Criminal Procedure Code, cannot be used to shut out statements given to the Police by persons who are afterwards called as witnesses. This point therefore fails. On the merits I will only say that the evidence, in so far as it has been accepted by the learned Joint Magistrate and the learned Sessions Judge, was quite sufficient to support the finding that the petitioner was a person to whom section 110 (*f*), Criminal Procedure Code, was properly applicable. I decline to interfere in revision.

K.W.R.
