

assigned to the word "value" in s. 3, cl. (13) of Act I of 1887 (General Clauses Act, 1887). In that Act "value" used with reference to a suit means "the amount or value of the subject-matter of the suit." This Court has already held in the case of *Mah. bir Singh v. Behari Lal* (1), that for the purposes of determining the proper appellate Court in a civil case the value of the subject-matter of the suit must be the value assigned by the plaintiff in his plaint and not the value as found by the Court, fraud or negligence excepted. As regards the precedent quoted, *Ram Raj Tewari v. Girnandan Bhagat* (2), we fully agree that the principle laid down for the valuation of suits to eject tenants at fixed rates is the correct one, and we should follow that principle in this case if we could arrive at the stage when it would become necessary for us to determine what the value of the subject-matter was. In this case, as the appellant had in his plaint himself put a value on the relief he asked for, and as that value was not questioned by the other side and was accepted by the Court of first instance, we are not in a position now to entertain the question as to whether it was or was not the correct value of that subject-matter. We may add that we have consulted the learned Judges who gave the decision in the case of *Ram Raj Tewari v. Girnandan Bhagat* (2), and we are authorized by them to say that the question as to the value stated in the plaint being the governing value throughout all the subsequent proceedings was not brought to their notice or argued in the case before them. We therefore are of opinion that the learned Judge was right in holding that no appeal lay to him. We therefore dismiss the appeal with costs.

Appeal dismissed.

REVISIONAL CRIMINAL.

Before Mr. Justice Tyrrell.

THE QUEEN-EMPRESS v. LAKHPAT.

Criminal Procedure Code, s. 560—Compensation for frivolous or vexatious complaint.—Such compensation inapplicable to a complaint under s. 110 of the Code.

The award of compensation under s. 560 of the Code of Criminal Procedure must be in respect of a frivolous and vexatious accusation of an offence of which the accused

(1) I. L. R. 13 All. 320; s. c. Weekly Notes, 1891, p. 107.

(2) I. L. R. 15 All. 63; s. c. Weekly Notes 1892, p. 240.

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person has been discharged or acquitted. That section is not applicable to an application made to a Magistrate solely with a view to his taking proceedings under s. 110 of the Code.

This was a reference under s. 438 of the Code of Criminal Procedure made by Sessions Judge of Meerut in respect of an order of a first class Magistrate dismissing an application to take security for good behaviour under s. 110 of the Code from one Hira, and ordering the applicant to pay Rs. 50 as compensation to Hira under s. 560. The applicant applied for revision of the above mentioned order to the Sessions Judge, who, being of opinion that the order was illegal, referred the case to the High Court.

On this reference the following order was passed by TYRRELL J. :—

One Lakhpat has been fined by a Magistrate at Meerut under s. 560 of the Criminal Procedure Code for having given information to a Magistrate that one Hira was a person amenable to the provisions of s. 110 of that Code. The Magistrate found that Hira was not an habitual robber, house-breaker or thief, or otherwise a person contemplated by s. 110. The Court of the Sessions Judge of Meerut took up in revision the question of the legality of this fine, and has reported the case upon the ground that s. 560 contemplates information and accusation for an offence, and provides compensation for a person who has been discharged or acquitted of such offence, the accusation against him being held to be frivolous or vexatious.

The order for fine or compensation is to be conveyed in the order of discharge or acquittal of the Magistrate trying the matter. The learned Sessions Judge held that in the present case no offence was imputed, no offence was tried and no offender was discharged. The provisions of Chapter VIII are aimed at the preventing of and are not consequent on the commission of specified offence. An offence means any act or omission made punishable by any law for the time being in force. The order of discharge or acquittal means an order relating to an imputed offence. Now Hira was not charged with any offence. He was called on to show cause why he should not execute a certain bond; the execution of a bond is th

only consequence of failure to show such cause, but it is not a punishment, and the imputed criminal habit is not a charge of an offence. Therefore Hira was not discharged or acquitted of an offence, and therefore there is no order of the Magistrate which could be made the vehicle of a lawful order of compensation as required by s. 560. There is authority relating to the corresponding section of the former Code of Criminal Procedure to the effect that compensation cannot be granted to a person respecting whom a rule similar to that issued under Chapter VIII of the present Code has been discharged.

The District Magistrate, who was not called on for an explanation in the matter, has interposed an observation to the effect that he remembers "a late ruling of one of the High Courts in which a charge under s. 110 of Criminal Procedure Code was treated as a charge of offence committed." He has omitted to indicate the ruling he refers to. The order of compensation is set aside, and if any money has been levied under it, it shall be returned.

APPELLATE CIVIL.

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Before Sir John Edge, Kt., Chief Justice, and Mr. Justice Aikman.

RUDR PRASAD (PLAINTIFF) v. BAIJNATH AND ANOTHER (DEFENDANTS).*

Civil Procedure Code, ss. 54, 55, 543, 551, 582, 584, 585—Second appeal, summary rejection of memorandum—Reasons for rejection to be recorded.

Per EDGE, C.J.—A Judge to whom a memorandum of appeal from an appellate decree is presented for admission is entitled to consider whether any of the grounds mentioned in s. 584 of the Code of Civil Procedure in fact exist and apply to the case before him, and if they do not to reject the memorandum of appeal summarily.

Section 551 of the Code of Civil Procedure applies to appeals which have been admitted.

Per AIKMAN, J.—When a memorandum of appeal is summarily rejected, whether under s. 543, or under s. 54 read with s. 582 of the Code of Civil Procedure, the reasons for such rejection should be recorded: *sed quare* whether, unless it appears from the memorandum of appeal taken by itself that a second appeal does not lie, a

*Appeal No. 26 of 1892 under s. 10 of the Letters Patent.