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 DAULAT RAM
 v.
 DURGA
 PRASAD.

the original mortgagees were entitled to give a discharge for the debt, made a highly equitable order as to costs. The lower appellate Court interfered with that order on what we consider untenable grounds. We allow this appeal, with costs in this Court and in the lower appellate Court as far as Daulat Ram is concerned, and vary the decree of the lower appellate Court as to costs by reinstating that portion of the decree of the first Court which relates to costs.

Appeal decreed.

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 May 16.

Before Mr Justice Tyrrell.

LALJI LAL (JUDGMENT DEBTOR) v. C. J. BARBER (DECREE-HOLDER).*

Execution of decree—Court executing decree not competent to go behind its terms—Act IV of 1882, ss. 88, 90.

Where a decree on a hypothecation bond besides decreeing sale of the hypothecated property purported also to grant relief over against the person and non-hypothecated property of the judgment-debtor and such decree remaining unchallenged became final in its entirety.

Held that it was competent to the decree-holder by application for execution of the decree to proceed against the non-hypothecated property of his judgment-debtor and it was not necessary for him to apply to the Court for a decree under s. 90 of the Transfer of Property Act. *Musahab Zaman Khan v. Layal-ullah* (1) distinguished.

The facts of this case sufficiently appear from the judgment of Tyrrell, J.

Munshi *Gobind Prasad* for the appellant.

Mr. *Fatch Chand* and Munshi *Ram Prasad*, for the respondent.

TYRRELL, J.—The appellant is a judgment-debtor under a decree held by the respondent which was made under s. 88 of the Transfer of Property Act on the 14th of September 1887, which was subsequently amended so as to become a decree against non-hypothecated property, also personally against the appellant. So far, of course, it was not a good decree under the section, but the appellant submitted to it and it became final against him. On the 21st of

* Second appeal No. 639 of 1892, from a decree of C. L. M. Eales, Esqr., District Judge of Azamgarh, dated the 2nd May 1892, confirming a decree of Babu Jai Lal, Munsif of Azamgarh, dated the 11th March 1892.

(1) L. L. R., 14 All., 513.

March 1888, and on the 11th of April 1888, steps were taken by the respondent to bring the hypothecated property under attachment and sale. The sale took place in November 1889. On the 4th of December 1891, the respondent made an application for the execution of his decree against the unhypothecated property of the appellant and this application is the subject of the present appeal. The Courts below have disallowed the judgment-debtor's objection to execution. That objection is based mainly upon the terms of a judgment of this Court delivered in *Musahab Zaman Khan v. Inayat-ullah* (1). It was argued here to-day that, according to the law laid down in that judgment, the decree held by the respondents could not have been made, in so far as it relates to non-hypothecated property and personal liability, inasmuch as the respondent's cause of action for such relief could not accrue to him until it was discovered that a decree under s. 88 of Act IV of 1882 had not operated to extinguish the entire debt, and it was contended that the respondent's proper and only remedy was by way of a suit under s. 90 of the Act. These propositions of law are unquestionably correct; but the case before me to-day is in one essential radically different from the case before the first Bench mentioned above. The point for determination in that case was that the circumstance that the plaintiff's demand for relief against the non-hypothecated property was not decreed could not be treated as a decision refusing him that relief and as such barring his subsequent suit under s. 90 by virtue of the rule of s. 13 of the Code of Civil Procedure. The decree under s. 88 in that case was properly limited to the property hypothecated in the bond. In the present case the respondent has obtained a decree which the appellant allowed to become final against him, which is a decree not merely under s. 88 but also a decree for relief outside the mortgaged property. There was only one mode by which that decree could have been rectified. The Court executing the decree cannot go behind its terms and declare that such and such terms can be executed while such and such other terms are based on errors of law or of procedure and may not be executed. The Court below

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is right in holding that it is incumbent on the executing Court to execute the decree as it stands, the execution not being barred by limitation or otherwise. The appeal is dismissed with costs.

Appeal dismissed.

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 May 16th.

REVISIONAL CRIMINAL,

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

QUEEN-EMPRESS v. RAGHU TIWARI.

Act XLV of 1860, s. 182—False information to a public servant—False complaint to the police.

Where as the result of a Police investigation it appears that a complaint made to the Police of the commission of an offence punishable under the Indian Penal Code is false, it is not necessary that the complainant should be given any further opportunity of establishing the truth of his allegations before his prosecution under s. 182 of the Indian Penal Code is proceeded with.

This was a reference by the Sessions Judge of Gházipur under s. 433 of the Code of Criminal Procedure, 1882. The facts of the case sufficiently appear from the judgment of the Court.

The Public Prosecutor (Mr. A. Strachey), for the Crown.

EDGE, C. J. and AIKMAN J.—Raghu on the 11th of December gave information to the Police that one Budhan had committed theft. The Police inquired into the matter, and came to the conclusion that the information was false. On the 17th of December 1892, the matter came before a Magistrate of the first class. On the Police report the Magistrate directed proceedings to be taken against Raghu under s. 182 of the Indian Penal Code. On the 19th of December, a summons was issued against Raghu and on the 24th, was served upon him. The summons called upon him to appear on the 5th of January 1893, to answer the charge. On the 3rd of January 1893, Raghu presented to the Court of the Magistrate a petition, dated the 2nd of January, in which he referred to the complaint made by him and to the proceeding against him under s. 182 of the Indian Penal Code, and asked that the latter proceeding should stand over until his complaint had been decided. The Magistrate did not