

to suggest to my mind that a fair and impartial trial will not be had before him. It is very possible that the accused may think that the Magistrate's mind may have been biassed against their case by what he saw on the view. Possibly the view explained to the Magistrate's mind on which side the truth was, and the accused may be under the impression, rightly or wrongly, that the view would support the case for the prosecution and show that the case for the defence was utterly improbable. But the ends of justice are that the truth should be arrived at, and should be arrived at whether an accused person objects to the truth being ascertained or not. I see nothing here to bring this case within s. 526 of the Code of Criminal Procedure, and I dismiss this application.

Application dismissed.

APPELLATE CRIMINAL.

*Before Sir John Edge, Kt., Chief Justice and Mr. Justice Blair.**

QUEEN-EMPRESS v. NAND KISHORE.

Act No. XLV of 1860 (Indian Penal Code), section 218—Offence—Public servant framing an incorrect record to save himself from legal punishment.

A public servant who does that which, if done to save another from legal punishment, would bring the public servant within section 218 of the Indian Penal Code, has equally committed the offence punishable under section 218 if the person whom he intends to save from legal punishment is himself. *Queen-Empress v. Gauri Shankar* (1) *quoad hoc* overruled. *Queen Empress v. Girdhari Lal* (2) referred to.

THE facts of this case are as follows :—

On May 29th, 1896, Nand Kishore, who was a patwári, was summoned as a witness in a rent case before a Deputy Collector. He did not bring with him, according to the usual practice in such cases, his copy of the settlement record. The Deputy Collector took his reply in respect of this omission, and he stated that he had not brought it because he had come to Court straight from the tahsíl, where he had been engaged in some account business,

* Criminal Appeal, No. 36 of 1897,

(1) I. L. R., 6 All. 42.

(2) I. L. R., 8 All. 558,

1897

IN THE MAT-
TER OF THE
PETITION
OF LALJI.

1897

February 12.

1897

QUEEN-
EXPRESS
v.
NAND
KISHORE.

and had not got it with him. The Deputy Collector discredited this, and in the exercise of the power conferred upon him under the patwari rules, which are framed under the Land Revenue Act, inflicted on the accused a fine of a month's pay.

The accused preferred a formal appeal to the Collector, who directed the Deputy Collector to make a further inquiry into the patwari's allegations. This inquiry was formally made.

The evidence of one of the parties to the rent case was taken on oath, and to make good his case the patwari produced his diary. In that he had altered the entry of the 26th May, which was—"To-day I came from the tahsil into my circle" into—"To-day I wrote the account of my circle in the tahsil."

In respect of this alteration the Collector ordered the prosecution of Nand Kishore, and he was committed to the Sessions Court and convicted under section 218 of the Indian Penal Code, and sentenced to three months' rigorous imprisonment. From this conviction and sentence he appealed to the High Court.

Mr. *E. A. Howard* for the appellant.

The Government Pleader (*Munshi Ram Prasad*) for the Crown.

EDGE, C.J. and BLAIR, J.—The simple question in this case is whether a public servant who does that which, if done to save another from legal punishment, would bring the public servant within section 218 of the Indian Penal Code has committed the offence punishable under that section if the person whom he intends to save from legal punishment is himself. In our opinion there is no reason why it should be an offence for a public servant to make a false record in order to save another person from legal punishment, and why it should not be an offence for him to make a false record to save himself from legal punishment. If the Legislature had intended that this section should only apply when the intention was to save some person other than the public servant, it would have been easy to insert the word "other" between the words "any" and "person." It appears to us that the appellant, who was a public servant, did not cease to be a person when he made a

false entry in his diary for the purpose of saving himself from punishment. Two authorities have been cited to us in this Court. One is that of *Queen-Empress v. Gauri Shunkar* (1) and the other that of *Queen-Empress v. Girdhari Lal* (2). In our opinion the appellant committed the offence under section 218 of the Indian Penal Code. We dismiss his appeal.

1897

 QUEEN-
EMPERESS
v.
NAND
KISHORE.

 REVISIONAL CIVIL.

1897

February 16.

*Before Sir John Edge, Kt., Chief Justice and Mr. Justice Blair.**

RAM CHANDAR (PLAINTIFF) v. CHANDI PRASAD AND OTHERS (DEFENDANTS).
Act No. XV of 1877 (Indian Limitation Act), section 20—Part payment of debt—Endorsement of hundi by debtor.

Where the only evidence in the handwriting of the debtor of the part payment of the principal of a debt was the endorsement of a hundi to the creditor; *held* that such endorsement was not sufficient within the meaning of section 20 of Act No. XV of 1877 to give a new starting-point for limitation. *Mackenzie v. Tiruvengadathan*, (1) referred to.

THIS was a suit in a Court of Small Causes to recover Rs. 426-1-6 as due on an account. The defendants pleaded that the claim was barred by limitation. The plaintiff relied upon the endorsement made on a hundi given him by the defendants as evidence of part payment within the meaning of section 20 of the Indian Limitation Act, 1877. The Judge of the Small Cause Court overruled this plea, relying on *Mackenzie v. Tiruvengadathan* (1), and dismissed the suit. The plaintiff applied in revision to the High Court.

Mr. D. N. Banerji for the applicant.

Munshi Jwala Prasad and Munshi Madho Prasad for the opposite parties.

EDGE, C.J. and BLAIR, J.—This case is covered by the decision of the Madras High Court in *Mackenzie v. Tiruvengadathan* (1). We agree with the decision of the Madras Court, and we dismiss this application with costs.

Application dismissed

* Civil Revision No. 23 of 1896 from a decree of Babu Nilmadhab Rai, Judge of the Small Cause Court, Benares, dated the 30th March 1896.

(1) I. L. R., 6 All. 42. (2) I. L. R., 8 All. 653.

(3) I. L. R., 9 Mad. 271.