

wajib-ul-arz I think the expression excluding such a right must be clear and imperative before I could find that so important an incident of proprietary possession could be lost by such devolution. It is to be regretted that the respondent was not represented in the argument upon this appeal, but I feel no doubt that Mr. *Mujtaba* has brought to bear upon the matter all cases which might help to guide the decision of the Bench. On the whole I am of opinion that the Courts below were right in their decision. I would dismiss the appeal.

BY THE COURT.—The appeal is dismissed, but without costs, as no one appeared for the respondent.

Appeal dismissed.

APPELLATE CRIMINAL.

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 MUHAMMAD
 YUSUF
 ALI KHAN
 v.
 DAL KUAR.

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 November 25.

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

QUEEN-EMPRESS v. MUHAMMAD ISMAIL KHAN.*

*Act No. XLV of 1860 (Indian Penal Code) section 177—False information—
 Police officer recording a false report.*

Held that a Police officer at a police station, who, being as such officer bound to enter all reports brought to him of cognizable or non-cognizable offences in the station diary, refused to enter a report made to him concerning the commission of an offence, and entered instead in the diary a totally different and false report as that which was made to him, had thereby committed the offence punishable under section 177 of the Indian Penal Code.

THE facts of this case are fully stated in the judgment of the Court.

The Government Advocate (Mr. *E. Chamier*), for the Crown.
 Mr. *C. Dillon*, for the respondent.

EDGE, C. J. and BURKITT, J.—This is an appeal brought by the Local Government against an order of the Sessions Judge of Farrukhabad acquitting Muhammad Ismail Khan of offences punishable under sections 177 and 218 of the Indian Penal Code.

On the 23rd of January last, Muhammad Ismail Khan was a head constable stationed at Kaimganj police station. It was

* Criminal Appeal No. 148 of 1897.

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his duty to enter all reports made at the station as to cognizable or non-cognizable offences, and to enter them in the station diary. On the evening of that day, whilst Muhammad Ismail Khan was on duty, Banwari Lal and Bansidhar with two other men, Balla and Udho, came to the thána to make a report that Banwari Lal had been robbed on that evening of Rs. 454, which his servant Udho was carrying, and that the robbers who had made the attack had succeeded in carrying away the bag in which the money was and had escaped.

Banwari Lal and his companions made their statement to Muhammad Ismail Khan and asked him to enter the report. Muhammad Ismail Khan said that they wanted to get up a case and told them to wait. They waited until 1 o'clock in the morning, and then left. Muhammad Ismail Khan did enter a report in the general diary that night as made by Balla accompanied by Bansidhar. It was not a report of a robbery; it was a report that a milkman had beaten Balla. No such report had been made. It so happened that, at the time Banwari Lal and his companions were at the station, the police were busy with a murder case just reported. Now the Sessions Judge has found that no such report as that alleged by the witnesses for the prosecution was made at all. The assessors suggested that Banwari Lal and his companions wished to hush up the case of the robbery and consequently made a false report which was then entered in the general diary. The Sessions Judge observes that that was a simple explanation, and he accepted it. In one sense of the word "simple" it was simple enough: so foolish that we should have expected the Sessions Judge to have rejected it. It might have struck him that these banias who had taken the trouble to go at that hour of the night more than a mile to the thána to report a robbery, which the Sessions Judge believed to have been committed (and which we have no doubt was committed), and remained there from 8 o'clock in the night until 1 o'clock next morning in order to have the matter reported, had not gone to the thána to make a false report of an assault that had not been committed, and

which, if it had been committed, did not concern either Bansidhar or Banwari Lal, the two chief men—a false report which might make them liable to punishment under section 211 of the Indian Penal Code. We are satisfied that the banias did report that a robbery had been committed that night, and that they did not any report any assault by a milkman on their porter.

It is easy to understand what happened. The Sub-Inspector at the time was absent investigating another case; there comes in a report of a murder that had taken place; then comes this report of a robbery. We have no doubt that at the police station they did not want to trouble about this case of robbery, in which none of the robbers had been identified, and in which what was carried away was rupees, which could not be traced, and in which there was little chance that an arrest would have been made or a conviction obtained. They thought they would keep the charge out of the books and not spoil their *nagshas* by showing an undetected offence of robbery committed in the street under their noses.

We are of opinion that section 218 of the Indian Penal Code does not apply to this case. No doubt it is injurious to the public that such serious offences as robbery should be hushed up, but unfortunately the definition of “injury” contained in the Penal Code does not cover anything that took place that night at the thána. We can well understand that cases of falsification of reports may occur which come within the purview of section 218. All we decide is that this case does not. There is nothing in this case to show that Muhammad Ismail Khan intended to cause loss or injury to the public or to any person, or that he intended to save, or knew he was likely to save, anyone from punishment or had any of the other intents mentioned in section 218, when he suppressed the real report and entered the false one.

We are of opinion, and we find, that Muhammad Ismail Khan did commit an offence punishable under section 177 of the Indian Penal Code. He was bound by law to enter in the general diary

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all reports of cognizable and non-cognizable cases made to him at the thána. It is needless to say that this duty involved that he should truthfully enter those reports. One object of that diary is to inform the Magistrate of the District and District Superintendent of Police of the offences which have been reported at the thána. In that sense the diary furnishes them with "information," and at this particular thána it was the duty of Muhammad Ismail Khan to furnish such information to the Magistrate of the District and the District Superintendent of Police by means of the truthful entry of reports made to him. What he did was—he furnished by means of a false entry information which he knew to be false. He suppressed the real report, and entered a report which had not been made. Indeed we would be prepared to hold that Muhammad Ismail Khan in not entering the report which was made to him, even if he had made no entry at all, would have brought himself under section 177, as the result would have been that he would have thereby informed the Magistrate of the District and the District Superintendent of Police that no report of a cognizable offence had been made, which would have been false information. It is absolutely necessary in the interests of the public that Police officers charged with the duty of entering these reports should enter them truthfully. We regard this as a serious case. A grave offence had been committed, and the action of Muhammad Ismail Khan, possibly countenanced by some other Police officer, that night has resulted in no inquiry so far as we are aware, having been instituted in respect of this highway robbery. We are aware that this class of offence is committed in certain districts; that reports made have been minimised and minor offences entered when a graver offence was in fact reported. We cannot pass over this offence lightly. We set aside the order of acquittal, and we convict Muhammad Ismail Khan of the offence punishable under section 177, and sentence him to be rigorously imprisoned for eighteen calendar months; the imprisonment will begin from the time when he is taken into custody to undergo this sentence.