In our opinion neither of these cases has any bearing on the one before us. If the plaintiffs had desired to obtain a remedy against Sadiq Husain through the medium of an order of Her Majesty in Council, they had ample notice of the assignment to him—they had actually paid him—and they could have made him a party to their appeal; but for reasons best known to themselves they did not do so. The plaintiffs are not asking to follow immovable property decreed to them in the appeal by order of Her Majesty in Council. They are asking to turn this decree against the defendants into a decree against Sadiq Husain, who was no party to the proceedings, and to put it into execution against his goods and his lands as if it had been a decree for money passed against him. In our opinion we have no jurisdiction to make any order for the execution of this order of Her Majesty in Council against Sadiq Husain. Equally in our opinion the Subordinate Judge had no jurisdiction to make the order which he made and which is now under appeal.

We allow this appeal and dismiss the application to the Subordinate Judge against Sadiq Husain with costs in both Courts.

Appeal decreed.

1897

SADIQ
HUSAIN
v.
LALTA
PRASAD.

APPELLATE CRIMINAL.

1897
November 23.

Before Sir John Edge, Kt., Chief Justice and Mr. Justice Burkitt.
QUEEN-EMPRESS *v.* TULSHA.*

Act No. XLV of 1860 *(Indian Penal Code), section* 307—*Attempt to murder—Intention—Knowledge of probable consequence of act—Presumption.*

Where a woman of twenty years of age was found to have administered datura to three members of her family, it was *held* that she must be presumed to have known that the administration of datura was likely to cause death, although she might not have administered it with that intention.

THE facts of this case sufficiently appear from the judgment of the Court.

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* Criminal Appeal No. 1153 of 1897.

Mr. *R. K. Sorabji* for the appellant.

The Government Advocate (Mr. *E. Chamier*) for the Crown.

EDGE, C. J. and BURKITT, J.—Musammat Tulsha has been convicted of the offence punishable under section 307 of the Indian Penal Code, and has been sentenced to transportation for life. She was a young woman of twenty or twenty-one years of age and was a widow, her husband having died before the *gauna* ceremony was performed. She had a lover named Tika Ram, who was of the same caste as herself. She was anxious to live with him, but her father and family were opposed to her taking that course, as in their caste the marriage of widows was forbidden. Musammat Tulsha prepared the family meal, and of that meal her father her mother and her brother partook. They were afterwards seized with illness and exhibited symptoms of poisoning by datura. A native doctor was called in, who, recognizing what they were suffering from, refused to treat them and communicated with the police. The police arrived that night. The three members of the family who were suffering were removed to the dispensary and ultimately recovered. Musammat Tulsha was taken into custody, and she gave up a packet containing thirty-one datura seeds. She made a statement before the Magistrate in which she admitted that she had administered datura to her father her mother and her brother in the food she had given. That statement was subsequently withdrawn, but, as it is entirely consistent with all the evidence in the case which we believe, we accept that statement as true notwithstanding its withdrawal. In the Court of Session her relations, in order to shield her, tried to make out a different case, namely, that what they were suffering from was the result of drinking bhang. We are quite satisfied that Musammat Tulsha administered datura to her father her mother and her brother. Mr. *Sorabji,* who appeared for her, has contended that there is nothing to suggest that she intended to commit murder, and that there is no evidence that she knew that datura when administered might cause death. It is probable that Musammat Tulsha did not intend to kill her parents and her

brother. No doubt she intended to incapacitate them for the time that she might fly with her lover. There is no evidence that she knew that datura when administered to a human being might cause death. The same might have been said if she had administered arsenic or nux vomica. It appears to us that we must presume that people of her age have the ordinary knowledge of what the results may be of administering datura. It would be dangerous in the extreme to the public in this country if judges were to hold that it could not be presumed that a woman of twenty years of age in an Indian village was not aware that death might be caused by the administration of datura. If we were to hold that such was the presumption, we fear that poisoning by datura would become more frequent than it is. In our opinion Musammat Tulsha was properly convicted. It was a case to which the sentence of transportation applied, and that was the proper sentence to pass. As the Sessions Judge truly observes, this woman's act might have resulted in the deaths of three persons. We dismiss this appeal.

APPELLATE CIVIL.

Before Mr. Justice Blair and Mr. Justice Aikman.

SULTAN MUHAMMAD KHAN (DEFENDANT) *v.* SHEO PRASAD AND ANOTHER (PLAINTIFFS).*

Arbitration—Submission to arbitration—Revocation of submission.

A submission to arbitration once made cannot be revoked except for good cause. It cannot be revoked at the mere will of one of the parties to it. *Pestonjee Nussurwanjee* v. *Manockjee & Co.* (1) referred to.

THIS was an application under section 525 of the Code of Civil Procedure to have an award filed in Court and a decree passed in accordance therewith. The award was made ostensibly by one Chandar Sen, the clerk of a pleader, by name Raghubir

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* Second Appeal No. 453 of 1895 from a decree of A. M. Markham, Esq., District Judge of Meerut, dated the 19th January 1895, confirming a decree of Maulvi Shah Ahmad-ullah Subordinate Judge of Meerut, dated the 16th May 1893.