1897

QUEEN-EMPRESS v. MAIKU LAL.

narrative of what took place in the presence of the man making it and is not at variance with any evidence in the case which is believed, and is not merely a parrot-like repetition of a story put into the man's mouth. In the present case the confession is full of detail. It is very circumstantial, and bears on it, in our opinion, the impress of truth. There is nothing in the evidence to suggest that it was false in any particular, and it was made before a District Magistrate who would take care, so far as he could, that no advantage was taken of the prisoner. Our belief in the truth of Nathu's confession before the District Magistrate is not in the slightest affected by his subsequent retraction of it. In our opinion these men were guilty, and were rightly convicted. Although the dacoits had fire-arms with them, no personal injury seems to have been done to any of the villagers or to the people of the house, and we think that in this case we may alter the sentence to one of ten years' rigorous imprisonment, and we do so accordingly. In other respects the appeals are dismissed.

APPELLATE CIVIL.

1897
November 20.

Before Mr. Justice Blair and Mr. Justice Aikman.

KANDHIA LAL (DEFENDANT) *v.* MUNA BIBI (PLAINTIFF).*

Guardian and minor—Loans to a minor—Inquiries necessary to be made by lender—Burden of proof.

A plaintiff who has advanced money to relieve the necessities of a minor must make all reasonable inquiries as to the facts of such necessities, and having made such inquiries and reasonably entertaining a *bonâ fide* belief in the existence of such necessities he can advance his money in safety, even though the sum borrowed by the guardian upon the security of the minor's estate is not in point of fact used for his necessities or his benefit. On the other hand a plaintiff who lends money without such inquiries cannot thereafter successfully have recourse to the minor's estate for the satisfaction of the debt. *Hanuman Pershad Pandey* v. *Babooee Munraj Kunwari* (1) referred to.

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*Second Appeal No. 910 of 1895 from a decree of C. L. M. Eales, Esq., District Judge of Benares, dated the 16th April 1895, modifying a decree of Babu Nil Madhab Roy, Subordinate Judge of Benares, dated the 13th December 1894.

(1) 6 Moo. I. A., 393.

1897

KANDHIA LAL v. MUNA BIBI.

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

Munshi *Jwala Prasad* (for whom Babu *Durga Charan Banerji*) for the appellant.

Pandit *Sundar Lal* and Pandit *Madan Mohan Malaviya*, for the respondent.

BLAIR and AIKMAN JJ.—The plaintiff in this case is described by herself in the array of parties mentioned in the plaint as the widow of Babu Sohan, occupation money-lending. In this case she alleges that she from time to time lent money to one Lachmin Kunwar as guardian of her infant son Kandhia Lal, against whose estate she is now proceeding. Various sums of money so advanced at last amounted to an aggregate of over Rs. 1,600, and for that sum upon the 5th of December 1889 the female defendant executed a bond, by which, in case of non-payment, the plaintiff was to be entitled to have recourse to the property of the defendant. From the contents of the bond it is manifest that the executing defendant represented that the advances so made had been required by the necessities of the estate of the minor defendant. On failure of payment the present suit was brought upon the bond, the mother, guardian of the infant defendant, being herself impleaded as a co-defendant. The allegations in the plaint upon which the claim is founded are that money was required for the payment of Government revenue due from the minor's zamíndári property and for money necessarily expended in suits for protection of the minor's estate. The defendant minor denies his liability. He denies that he received benefit from the loan or loans, and alleges that his property was sufficient to meet all charges upon it without borrowing. He denies that Government revenue was due at the time of the making of the bond, and alleges that none was paid out of the money secured by it, nor was there at that time need for money to carry on litigation. There was a further allegation, now immaterial, that Lachmin Kunwar had been induced by fraud to sign the instrument, The

Judge of the Court of first instance framed certain issues, three of which only are now material. They are:—

(1) Was the minor benefited by the loan?

(2) Are the necessities mentioned in the bond correct?

(3) Is the loan binding upon the minor?

The Judge found all these issues in favour of the minor, holding that there were no necessities and no expenditure for the benefit of the minor and that the loan was therefore not binding upon him. A decree was passed against the female defendant, who did not file a statement of defence, and as against the minor defendant the suit was dismissed. In the lower appellate Court, the Judge rightly laid the burden of proof upon the plaintiff appellant, but differed from the Subordinate Judge upon his finding that the plaintiff had produced no evidence of legal necessity. He himself treated as evidence certain decrees produced to him in cases in which the minor was a litigant, and in which on appeal in this Court he had been successful. These cases were also, he says, test cases upon which depended half of the minor's zamíndári estate. He also takes as evidence of liability to pay the Government revenue certain unsuccessful applications made to the District Judge by the female defendant for leave to borrow money on the security of the minor's estate. We do not acquiesce in the inference drawn by the Judge from these facts. But it is not upon that that our decision is grounded. There is manifestly no evidence before either Court that the plaintiff had made inquiry as to the necessities of the minor before advancing the money or moneys sought to be secured by the bond, nor was there really any evidence at all that such liabilities, had they existed, could not have been met out of the accumulations or current income of the minor's estate. In the judgment of the Privy Council in *Hanuman Pershad Pandey* v. *Babooee Munraj Kunwari* (1) the law upon this subject is considered and laid down in much detail. It is there ruled that a plaintiff who has advanced money to relieve the necessities of a minor must make all reasonable

(1) 6 Moo., I. A., 393.

1897

KANDHIA LAL v. MUNA BIBI.

inquiries as to the facts of such necessities, and having made such inquiries and reasonably entertaining a *bonâ fide* belief in the existence of such necessities he can then advance his money in safety, even though the sum borrowed by the guardian upon the security of the minor's estate is not, in point of fact, used for his necessities or his benefit. On the other hand, a plaintiff who lends money without such inquiries cannot thereafter successfully have recourse to the minor's estate for the satisfaction of the debt.

It is perhaps unfortunate, at all events it is curious, that the plaintiff money-lender should neither have alleged any reasonable inquiry made by herself before effecting the loan or loans, nor upon the hearing should have given any evidence of such inquiry. The lower appellate Court, which allowed the appeal of the plaintiff and decreed her suit against the minor defendant, did so without any finding that such inquiries had been made, and indeed the plaintiff had neglected to supply it with materials for doing so, nor does it appear even to have had before it, in explicit evidence upon the issues which it did try, direct proof that in fact the money borrowed was applied for the benefit of the minor and that there were necessities for borrowing it.

We are asked by the plaintiff-respondent to refer to the Court below an issue as to whether reasonable inquiries had been made by the plaintiff. We do not think we ought to grant her that grace; she certainly is not entitled to it as a matter of law. This is a suit substantially by a money-lender against a minor, and it is not the practice of this Court, or Courts elsewhere, to step out of their way for the purpose of visiting upon a minor liabilities contracted during the period of his minority. We are therefore of opinion that the decree of the lower appellate Court is a decree based upon evidence which does not establish a right of suit on the part of the plaintiff as against the minor. We therefore, setting aside the decree of the lower appellate Court against the minor and restoring the decree of the Court of first instance, allow the appeal with costs.

Appeal decreed.