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minds judicially to that question. The petition asks, as has already been said, that the Court should grant the certificate under section 596, treating it as part of the ordinary ministerial jurisdiction of the Court; and no reasons are given, and no grounds are stated by the learned Judges, for holding that, although it did not comply with section 596, it was still a fit case to appeal to Her Majesty in Council.

Their Lordships, therefore, are not satisfied that the judicial mind of the Court has ever been applied to that question; still less that the certificate, which was signed by the learned Judges, does not carry out what they intended to order and direct.

They will only add that, if Mr. Mayne had been in a position, which he very fairly admitted he was not, to say that he could with any hope of success ask for special leave to appeal, their Lordships would not have shut out the appellant from stating his case to the Board; but as it is their Lordships will humbly advise His Majesty that the appeal be dismissed, and they will direct that the appellant pays the costs of the appeal.

*Appeal dismissed.*

Solicitor for the appellant:—Mr. T. C. Summerhays.

Solicitors for the respondent:—Messrs. Pyke and Parrott.

## APPELLATE CRIMINAL.

1901  
May 14.

*Before Mr. Justice Knox.*

KING-EMPEROR v. MUHAMMAD HUSAIN.\*

*Act No. XLV of 1860 (Indian Penal Code), section 232—Counterfeiting Queen's coin—Removing rings from coins used as ornaments, and restoring the same to circulation.*

It is not an offence under section 232 of the Indian Penal Code to remove the ring from a coin which has been used to form part of a necklace or other ornament, and to work up the face of the coin where the ring has been, it not being shown that any material part of the coin has at any time been removed.

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

Mr. S. Sarbadhicary, for the appellant.

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

\* Criminal Appeal No. 247 of 1901.

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KNOX, J.—The appellant has been convicted of two separate offences under the Indian Penal Code; the first an offence under section 235, the second, an offence under section 232 of the same Code. The evidence which relates to the offence under section 235 has been believed by the Judge, and after hearing the whole of the evidence, I too have come to the conclusion that it satisfactorily establishes the following facts. The accused was found after search made in his house to be in possession of instruments which are and can be used for the counterfeiting of Queen's coins. Those instruments were found inside a box, and that box hidden away in a cellar. When it was produced the appellant appears to have suggested that the box was introduced into the cellar by the agency of the police. Even now it is contended on his behalf that the box and the articles in the box are not his, and that they were introduced by police agency. In appeal the following reasons are put before me as reasons why the evidence should be considered doubtful. It is contended that the appellant is a watch-maker and a carpenter, and that these materials are for the legitimate uses of his trade, and not for the counterfeiting of coin. This plea might have been entitled to some weight, and probably would have had great weight, if upon the discovery of the box this explanation of it and of its doubtful contents had been given; but, as I have said, it is even now denied that this box and these materials have anything to do with the appellant. The second ground is that the police ought to have brought search witnesses from the neighbourhood. The law requires that search witnesses should, when possible, be respectable inhabitants of the locality in which the place to be searched is situate. The place searched was in the town of Moradabad, the search witnesses are also residents of Moradabad, and the evidence is to the effect that they live within 500 paces of the place which was searched; but the important point is that there is nothing to show that these witnesses are not respectable men, or that their evidence is open to doubt for any reasonable cause. Then it is further urged that the story told is in places contradictory. I do not see that any contradictions of sufficient moment have been established. Therefore as regards the offence under section 235, I see no cause to interfere with the conviction or sentence.

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As regards the offence under section 232, the point is a more difficult one. So far as the evidence goes, it would appear that the appellant has been in the habit of receiving what are called "kundedar" rupees. There is nothing to show on the record that any material part of the rupees has at any time been removed. For aught that appears, all that may have been done by the appellant is to remove the "kunda" and work up the face of the coin where the "kunda" had been. If this was all that he did, I am not prepared to hold without better evidence than there is in this case that any offence has been committed under section 232 of the Indian Penal Code. There is certainly room for doubt here as regards this portion of the case. I allow the appeal, find the appellant not guilty of any offence under section 232 of the Indian Penal Code, and set aside the sentence.

1901  
May 30.

## REVISIONAL CRIMINAL.

*Before Mr. Justice Blair and Mr. Justice Burkitt.*

KING-EMPEROR v. KARIM-UD-DIN BEG.\*

*Criminal Procedure Code, sections 110, 123—Security for good behaviour.*

*—Term for which imprisonment in default of finding security should be ordered.*

Although it is within the competence of a Sessions Judge, acting under section 123(3) of the Code of Criminal Procedure, to direct that a person who has been ordered to give security shall, on failure to give security, be imprisoned for any term not exceeding three years, yet it is advisable that the term of imprisonment in default ordered under that section should always be the same as the period for which the security is directed to be given.

In this case Karim-ud-din Beg was ordered, under section 110, of the Code of Criminal Procedure, to find security for a term of three years. On the proceedings coming before the Sessions Judge for orders under section 123 of the Code, the Sessions Judge reduced the amount of security required, but not the term, and in default ordered that Karim-ud-din Beg should be rigorously imprisoned for eighteen months.

Against this order an application for revision was filed on behalf of Government, the objection urged being that the Sessions Judge having directed Karim-ud-din Beg to furnish security for

\*Criminal Revision, No. 256 of 1901.