

of s. 370 (cl. *z*). In our opinion it is not. We think that it is a sentence of a fine, and that the latter part of the sentence is a mere mode of compelling payment of the fine, and that the meaning of that section is that, where the offence was sufficiently grave to involve a fine of Rs. 200 or imprisonment as the substantive sentence, the Magistrate was bound to record his reasons so as to enable the party to bring the matter up to this Court. But in petty cases which the Magistrate thought would be met by a fine of a few rupees the Legislature thought that his decision ought to be recorded shortly, and if the parties wanted to bring it up they could do so in some other form. For these reasons we think the Magistrates' order was quite sufficient under s. 370, and that the rule must be discharged.

T.A.P.

Rule discharged.

CRIMINAL REFERENCE.

Before Sir W. Comar Petheram, Knight, Chief Justice, and Mr. Justice Beverley.

IN THE MATTER OF NEAZ *v.* MONSOR AND ANOTHER.*

Cattle Trespass (Act I of 1871), s. 22—Joint fine—Fine and compensation. December 20.

Proceedings under s. 22 of the Cattle Trespass Act are *quasi-civil* in their nature ; a Magistrate being at liberty under that section to assess and enforce, in a summary manner, compensation for an injury for which a civil action might be brought.

An order, therefore, for the payment of a sum as fine and compensation, passed against two persons under that section which does not specify the proportionate amount payable by each, is good.

In this case the Deputy Magistrate of Brahmanbariah found that two persons, Monsor and Dengoo, had illegally impounded 19 head of cattle belonging to the complainant, thereby causing him to pay a sum of Rs. 7-2 for the release of the cattle ; the Magistrate therefore convicted them under s. 22 of Act I of 1871 (The Cattle Trespass Act), directing them to repay the sum of Rs. 7-2 to the complainant as a fine, and also Rs. 20 as

* Criminal Reference No. 222 of 1886, made by F. W. J. Rees, Esq., Sessions Judge of Tipperah, dated the 6th of December, 1886, against the order passed by W. Archer, Esq., Deputy Magistrate of Brahmanbariah, dated the 18th of September, 1886.

1886

MOTERAM
v.
BELASEE-
RAM.

1886

1886
 NRAZ
 v.
 MONSOR.

compensation; the order containing no direction as to the proportion in which the sums referred to should be paid by Monsor and Dengoo.

The Sessions Judge, considering the order to be illegal on the ground that Monsor and Dengoo had been fined jointly Rs. 27, sent up the record of the case to the High Court under s. 438 of the Criminal Procedure Code.

No one appeared at the hearing for either party.

The order of the Court (PETHERAM, C.J., and BEVERLEY, J.) was as follows:—

In this case we are of opinion that under s. 22 of Act I of 1871 the order made by the Deputy Magistrate was a legal order. The matter in which that order was made was not a regular criminal proceeding, but a *quasi-civil* proceeding, in which a Magistrate is authorized to assess and enforce in a summary manner compensation for an injury for which a civil action might be brought. Under these circumstances we think that, in the present case, the so-called accused are jointly and severally liable for the compensation and costs awarded, and we see no reason to interfere.

T. A. P.

Order upheld.

ORIGINAL CIVIL.

Before Mr. Justice Trevelyan.

1886
 December 20.

KRISTO NATH KOONDOO AND OTHERS (PLAINTIFFS) v. T. F. BROWN AND OTHERS (DEFENDANTS).²

Landlord and Tenant—Use and Occupation—Re-entry—Forfeiture—Demand of rent—Statute 32, Hen. VIII, c. 34—Waiver—Registration of power of attorney—Evidence Act I of 1872, ss. 3, 57.

A covenant in a lease reserved to the lessor, on default of payment of rent, a power of re-entry; there being no mention in such covenant of a similar power being also reserved to his "heirs, successors or assigns."

The lessor sold his rights in the property leased to third persons, and such third persons endeavoured to re-enter under the covenant. *Held*, that although re-entry was reserved only to the lessor, yet his vendees could take advantage of the covenant, the operative part of the Statute 32, Hen. VIII, c. 34 being wide enough to admit of this, notwithstanding the wording of the preamble.

*Original Suit No. 116 of 1884.