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taken under section 260 of the Code of Civil Procedure. Article 179, schedule II, of the Limitation Act, upon which the appellant relies, is inapplicable, and does not preclude the Court from taking proceedings to enforce its authority. This was held in *Rum Saran v. Chhatar Singh* (1). Under section 260 of the Code of Civil Procedure the decree-holder was entitled to ask the Court to enforce the decree which was passed against the appellant for abstention from a particular act, and all that the Court had to see was whether the appellant had an opportunity of obeying the decree or injunction, and had wilfully failed to obey it. The decree was made so far back as 1899. The present application was made so long ago as the 26th of July, 1904. The appellant had thus ample opportunity for obeying the decree, and had failed to obey it. The Court below was therefore, justified in ordering enforcement of the decree. This appeal is untenable, and I dismiss it with costs.

Appeal dismissed.

APPELLATE CRIMINAL.

Before Mr. Justice Banerji.

EMPEROR v. RAM SARUP.*

Act No. XI of 1878 (Indian Arms Act), sections 19 and 20—Definition—Concealment of arms on search being made by the Police—Mere denial of possession not concealment—Possession of unlicensed arms.

Held that the mere denial on the part of a person whose house is being searched by the police for unlicensed arms that he has any such arms in his possession does not constitute a concealment or attempt to conceal arms on search being made by the police within the meaning of the second paragraph of section 20 of Act No. XI of 1878.

Held also that where unlicensed arms are found concealed upon premises which, though legally the joint property of a joint Hindu family, are in fact at the time of the finding in the exclusive possession and control of one member of the family, that member of the family can properly be held to be in possession of such arms. *Queen-Empress v. Sangam Lal* (2) distinguished.

In this case one Ram Sarup, a member of a well-to-do family of zamindars and money-lenders in the Bareilly district, was tried by the Sessions Judge of Bareilly for various offences

* Criminal Appeal No. 820 of 1905.

(1) (1901) I. L. R., 23 All., 465.

(2) (1898) I. L. R., 15 All., 129.

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under the Indian Arms Act (No. XI of 1878). The charges were three—firstly, under section 19(*f*) of the Arms Act, of having in his possession arms and ammunition in contravention of the provisions of the Act; secondly, under section 20 read with section 19(*e*) of the Act, of importing arms into British India from the Gwalior State; and, thirdly, of attempting to conceal arms on a search being made by the police under section 20, paragraph 2. The Sessions Judge found Ram Sarup guilty upon all three counts, and sentenced him to one year's rigorous imprisonment on each of two former, the sentences to run consecutively, and to six months' rigorous imprisonment on the third count, to run concurrently with the other sentences.

Ram Sarup appealed against these convictions and sentences to the High Court, where it was contended, as to the conviction under the second paragraph of section 20, that the facts disclosed did not amount to any offence under that paragraph; as to the question of importation, that the evidence was not sufficient to sustain the finding that Ram Sarup had imported the arms which were found upon certain premises belonging to the joint family of which Ram Sarup was a member, and as to the question of possession, that the rooms where the arms were found being part of the joint family property, the ruling in the case of *The Queen-Empress v. Sangam Lal* (1) applied, and the possession of the arms could not be attributed to the appellant exclusively.

Sir *Walter Colvin* and Mr. *B. E. O'Connor*, for the appellant.

The Assistant Government Advocate (Mr. *W. K. Porter*), for the Crown.

BANERJI, J.—The appellant, Ram Sarup, has been convicted under section 19, clause (*e*) of the Arms Act, under section 20 read with section 19, clause (*f*) of that Act, and under the second paragraph of section 20 of the Act, and has been sentenced to different terms of imprisonment, including solitary confinement. It appears that upon information received by the District Magistrate the house of Ram Sarup was searched by the police. A pistol was found in a granary attached to a shop carried on by Ram Sarup among bales of cloth. Three swords and another

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pistol were found in another room concealed behind some beams. Some ammunition was also found in that room. The learned Sessions Judge has convicted Ram Sarup of having imported arms in contravention of the provisions of section 6 and of being in possession of such arms. He has also convicted him of having concealed, or attempted to conceal, arms on search being made in his house. I shall consider the questions raised in the order in which they were argued by Sir *Walter Colvin* on behalf of the appellant. He contends that the conviction under the second paragraph of section 20 is illegal, as upon the facts found there was no concealment or attempt at concealment within the meaning of the section. The learned Judge finds, and the evidence proves, that when Mr. Williamson, the District Superintendent of Police, went to search the house in which Ram Sarup lived, the latter denied that he had any arms in his possession. The learned Judge says that this amounted to concealment, as the word "conceal" bears the meaning of "forbearing to disclose." I am unable to agree with the learned Judge. The words "conceals or attempts to conceal" in the second paragraph of section 20 must be read with what precedes, namely, that the concealment or attempt at concealment was made on a search being made under section 25. This obviously does not mean that a mere denial to a police officer making a search of any arms being in the house is equivalent to concealment or attempt at concealment. There must be some overt act of concealment or attempt at concealment with a view to prevent the discovery of the arms searched for. No such thing happened in this case. I am, therefore, of opinion that the conviction under the second paragraph of section 20 cannot be sustained. The learned Assistant Government Advocate made no attempt to support the learned Judge's view upon this point. The conviction and sentence under the second paragraph of section 20 must, therefore, be set aside.

The next question is whether it has been proved that the accused had arms in his possession. As I have already said, a pistol was discovered in a granary behind the shop which is carried on by the accused alone. The other arms were found in a room of which the accused had the key. He stated to the

District Superintendent of Police that he had lost the key of that room, and thereupon the padlock was broken open, the room was entered and the arms were discovered. The arms were thus found in a part of the house which was in the exclusive possession of the appellant. It is true that according to the evidence of Gobardhan Das, the brother of the accused, he and his brother form a joint Hindu family. But the evidence discloses that the rooms in which arms were found were in the exclusive possession and under the control of the accused. This distinguishes the present case from the case of *Queen-Empress v. Sangam Lal* (1). I am therefore of opinion that the conviction upon the charge of being in possession of arms must be upheld.

As for the charge of importing arms, the evidence proves these facts :— Ram Sarup went to Gwalior on the occasion of the funeral ceremonies connected with the death of the father of one Chiranji Lal. He was staying with Chiranji Lal, and on that occasion at his request Chiranji Lal bought certain arms, one of which was the pistol, exhibit I, found in the possession of the accused. It has also been proved that he was on that occasion accompanied by two men, Teja and Kalian, who, according to the evidence of Gobardhan Das, are the associates of one Burana, who is said to have ruined the accused, Ram Sarup. After Ram Sarup's departure from Gwalior some more arms were bought by Chiranji Lal and put in a box which contained the pistol, exhibit I. The box was made over to Teja and Kalian who brought it away. Some of those arms were found in the possession of the accused, and have been duly identified. Coupling these circumstances together, it is reasonable to infer that the arms were imported by the accused. I think the conclusion at which the learned Sessions Judge has arrived upon this part of the case is correct.

Now remains the question of sentence. The accused is a young man belonging to a respectable and well-to-do family of zamindars and money-lenders. It is manifest that the arms were not imported for the purpose of committing any crime. Under these circumstances the sentences passed on him are in

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my judgment unduly severe. I think the ends of justice will be sufficiently met by altering the sentences under section 19, clause (c), and under section 20 read with section 19, clause (f), to sentences of six months' rigorous imprisonment, the two sentences to run concurrently, and I order accordingly. The sentence of solitary confinement is set aside, as also are the conviction and sentence under the second paragraph of section 20. To the above extent I allow the appeal.

REVISIONAL CRIMINAL.

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December 15.

Before Mr. Justice Aikman.

EMPEROR v. RANJIT.*

Criminal Procedure Code, sections 110, 118—Security for good behaviour—Fresh proceedings taken immediately after the period of a previous security bond has expired—Locus penitentie.

Ranjit was bound over to be of good behaviour for a period of three years, which term expired on the 13th of June, 1905. On the 20th of June, 1905, fresh proceedings were started against him under section 110 of the Code of Criminal Procedure. *Held* that the interval was not long enough to give Ranjit any opportunity of showing that he was willing to adopt an honest livelihood, and that evidence relating to events prior to the 13th of June, 1905, was inadmissible in support of a fresh order under section 110. *Emperor v. Husain Ahmad Khan* (1) followed.

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

Mr. J. Simeon, for the applicant.

The Assistant Government Advocate (Mr. W. K. Porter), for the Crown.

AIKMAN, J.—This is an application for the revision of an order of the learned Sessions Judge of Aligarh directing the applicant to furnish security for his good behaviour for a term of three years, or in default to undergo rigorous imprisonment. The applicant had been under a bond for his good behaviour for a term of three years, which term expired on the 13th of June, 1905. On the 20th of June, 1905, the present proceedings were instituted at the instance of a Sub-Inspector of Police.

*Criminal Revision No. 616 of 1905.

(1) Weekly Notes, 1905, p. 34.