

the case to the Court of first instance for trial. The order complained of was made in proceedings under the Tenancy Act, 1901, for execution of a decree against a surety, which could, by reason of the provisions of section 253 of the Code of Civil Procedure, be made against him. Section 193 of the Tenancy Act, which provides for the application of some of the provisions of the Code of Civil Procedure to suits and other proceedings under the Act, excludes Chapter XLIII of the Code from application to such suits and proceedings. As section 588, under which alone this appeal could be preferred, appears in Chapter XLIII and has not been extended to suits and proceedings under the Tenancy Act, this appeal is not maintainable.

Assuming that the appeal is maintainable, we think that the order of the Court below is a proper order. We accordingly dismiss this appeal with costs.

Appeal dismissed.

REVISIONAL CRIMINAL.

1905

June 29.

Before Mr. Justice Know.

EMPEROR v. KUNA SAH.

*Criminal Procedure Code, sections 4, 476—Jurisdiction—“Judicial proceedings”—Inquiry into petition against subordinate official.**

Held that an inquiry conducted by a Magistrate into the truth of allegations against a subordinate official contained in a petition presented to a Deputy Commissioner is a judicial proceeding within the meaning of section 4 (m.) of the Code of Criminal Procedure. *Hara Charan Mookerji v. The King-Emperor* (1) distinguished.

THE applicant in this case presented a petition to the Deputy Commissioner of Almora containing certain serious accusations against one Durga Dat Tiwari, a peshkar. By orders of the Deputy Commissioner these accusations were inquired into by a Deputy Magistrate of the first class, who found them to be false and malicious. The Deputy Magistrate accordingly passed an order under section 476 of the Code of Criminal Procedure, directing the prosecution of the applicant under section 211 of the Indian Penal Code. The applicant then came in revision

* Criminal Revision No. 249 of 1905.

(1) (1905) L. L. R., 32 Cal., 867.

1905
 VILAYAT
 HUSEN
 v.
 MAHARAJA
 MAHENDRA
 CHANDRA
 NANDY.

1905
 EMPEROR
 v.
 KUNA SAH.

to the High Court, his main contention being that the petition presented by him was not a "complaint" within the meaning of the Code of Criminal Procedure, nor was the inquiry conducted by the Deputy Magistrate a "judicial proceeding." The Magistrate therefore had no jurisdiction to make any order under section 476.

Babu *Lalit Mohan Banerji*, for the applicant.

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

KNOX, J.—On the 11th July 1904, one Kuna Sah made a communication to the Deputy Commissioner of Almora in which he set out certain alleged acts of extortion said to have been committed by one Durga Dat Tiwari, a peshkar. An inquiry was held into the matters disclosed by this communication. The person holding the inquiry was a Magistrate, and therefore a Criminal Court. While he held such an inquiry he came to the conclusion that Kuna Sah had made allegations which were false to his knowledge with intent to cause injury to Durga Dat. Accordingly, under section 476 of the Code of Criminal Procedure, he sent the case for trial to the Court of the Sub-Divisional Magistrate. It is contended before me that the inquiry which was held, and in the course of which these statements were made, was not a judicial proceeding, and I was referred to the case of *Hura Charan Mookerji v. The King-Emperor* (1). That case was perfectly distinguishable from the one before me. The judicial proceeding had come to an end and it no longer existed. That cannot be said in the present case. The definition of the words "judicial proceedings" in the Code of Criminal Procedure is so wide that it certainly includes the inquiry in which the alleged false statements were repeated. I see no reason for interfering. The application is dismissed.

(1) (1905) I. L. R., 32 Cal., 367.