

1912

EMPEROR
v.
RAM KISHAN
DAS.

to have the case tried in Allahabad. I order that the three cases, against the applicant, be transferred from the court of the Joint Magistrate of Karwi to that of the District Magistrate of Allahabad, who will either try the cases himself or send them for trial to some other Magistrate subordinate to him competent to try them.

Application allowed.

REVISIONAL CRIMINAL.

1912
August, 13.

Before Mr. Justice Muhammad Rafiq.

EMPEROR v. DEBI PRASAD.*

Criminal Procedure Code, sections 4 and 195(1)—“Complaint”—Information of the supposed commission of an offence communicated by the District Judge to the District Magistrate with a view to the latter taking action as a magistrate.

A Munsif, being of opinion that a document filed in a case before him had been tampered with, communicated his suspicions to the District Judge, who thereupon wrote to the District Magistrate, requesting him to take action in the matter. *Held* that the letter of the District Judge to the District Magistrate amounted to a complaint within the meaning of section 195 (c) of the Code of Criminal Procedure. *Emperor v. Sundar Sarup* (1) followed.

In this case the Munsif of Havali, Bareilly, coming to the conclusion that a document filed in a case before him had been tampered with, communicated his views on the subject to the District Judge. The District Judge thereupon wrote to the District Magistrate requesting him to take action in the matter, and the District Magistrate initiated proceedings against the person concerned and made the case over to the Joint Magistrate. An application for revision of the District Magistrate's order and to set aside the proceedings pending against the applicant was accordingly preferred to the High Court on the ground that there existed no legal foundation for the exercise of his jurisdiction by the Joint Magistrate.

Mr. *Nihal Chand*, for the applicant.

The Government Advocate (Mr. *A. E. Ryves*), for the Crown.

RAFIQ, J.—It appears that in a case pending in the court of the Munsif of Havali in the district of Bareilly a document was tampered with. The learned Munsif reported to the District Judge about the tampering with the document. The latter wrote to the District Magistrate to take action in the matter. The case was made over to the Joint Magistrate of the district for trial. The

*Criminal Revision No. 530 of 1912.

(1) (1904) 1, L. R., 26 All., 514.

applicant, who is one of the accused in the case, has filed this petition, under section 439 of the Code of Criminal Procedure, for revision of the proceedings pending in the court of the Joint Magistrate. It is contended on his behalf that the Joint Magistrate has no jurisdiction to try the applicant and the other accused inasmuch as no complaint according to law has ever been filed. It is argued that the letter of the District Judge to the District Magistrate, in the absence of any proceedings under section 476 of the Code of Criminal Procedure, does not fall within the definition of a complaint, and that section 195, sub-section (1), of the Code of Criminal Procedure has no application. In support of this contention the learned counsel has cited *In the matter of the petition of Mathura Das* (1) and *In Re Lakshmidas Lalji* (2). A later decision of this Court, viz., *Emperor v. Sundar Sarup* (3), covers the present case. The application is therefore rejected.

Application rejected.

APPELLATE CIVIL.

Before Mr. Justice Sir Henry Griffn and Mr. Justice Chamier.

HIRDEY NARAIN AND ANOTHER (OPPOSITE PARTIES) v. MRS. M. J.
POWELL AND ANOTHER (OBJECTORS) *

Act No. I of 1894 (Land Acquisition Act), section 30—Compensation—Mode of apportioning amount allotted as compensation between different interests.

Where land which is taken up under the Land Acquisition Act belongs to two or more persons the nature of whose interest therein differs, the compensation allotted therefor must be apportioned according to the value of the interest of each person having rights therein so far as such value can be ascertained.

THIS was an appeal from an order or decree of the District Judge of Saharanpur, made on a reference under section 30 of the Land Acquisition Act, 1894, apportioning the compensation payable in respect of certain land in which both were interested between the appellants and respondent.

The facts out of which the appeal arose are set forth in the following order of remand:—

Dr. Tej Bahadur Sapru, for the appellants.

Mr. A. E. Ryves and Mr. Nihal Chand, for the respondents.

* First Appeal No. 351 of 1910, from a decree of E. O. E. Leggatt, District Judge of Saharanpur, dated the 14th of July, 1910.

(1) (1892) I. L. R., 16 All., 80. (2) (1907) I. L. R., 32 Bom., 184.

(3) (1904) I. L. R., 26 All., 514.

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October, 30.