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determined in this Court by *Bhup* v. *Ram Lal* (1) and *Jagannath* v. *Ajudhia Singh* (2). If a suit between rival claimants to a tenancy is cognizable by the Civil Court, it is impossible to suggest any principle upon which a suit between the tenants of adjoining holdings, to determine the question whether a certain parcel of land appertains to the holding of the plaintiffs or to the holding of the defendants, should be barred. We accordingly accept this appeal and, setting aside the decrees of both the courts below, remand the case through the lower appellate court to the court of first instance for decision on the merits. Costs here and hitherto will abide the result.

Appeal allowed and cause remanded.

REVISIONAL CRIMINAL.

Before Mr. Justice Walsh.

EMPEROR *v.* MATHURA PRASAD.*

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July, 25.

Act No. XLV of 1860 (*Indian Penal Code*) *section* 211—*False charge—Necessary constituents of offence under section* 211—*Report to a police officer casting suspicion on certain persons.*

In order to constitute an offence defined by section 211 of the Indian Penal Code, the "charge" therein alluded to must be made to an officer or to a court who has power to investigate and send it for trial, and it must be an accusation made with the intention to set the law in motion. *Chena Malli Gawda* v *Emperor* (3), *Chinna Ramana Gowd* v. *Emperor* (4) and *Zorawar Singh* v. *King-Emperor* (5) followed.

The following statement was made to a police officer;—

"I find there has been a theft: I suspect the persons named, and I want an inquiry to be made." *Held* that if the statement was false, the offence committed fell under section 182 of the Indian Penal Code and not under section 211.

THE accused in this case had been convicted by the Sessions Judge of Meerut of an offence under section 211 of the Indian Penal Code in that he had given the following information, which was found to be false, to an officer in charge of a police station:—"I find there has been a theft: I suspect the persons named, and I want an inquiry made." Against his conviction and sentence the accused applied to the High Court in revision upon the ground that the information given to the

* Criminal Revision No. 550 of 1917, from an order of E. R. Neave, Sessions Judge of Meerut, dated the 23rd of June, 1917.

(1) (1911) I. L. R., 33 All., 795.
(2) (1912) I. L. R., 35 All., 14.
(3) (1904) I. L. R., 27 Mad., 129.
(4) (1908) I. L. R., 31 Mad., 506.
(5) (1911) 11 A. L. J., 1103.

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police officer did not amount to falsely charging anyone and could not be held to come within the purview of section 211.

Mr. *A. H. C. Hamilton*, for the applicant.

The Assistant Government Advocate (Mr. *R. Malcomson*), for the Crown.

WALSH, J.—In this case the question is whether the accused made a false charge under section 211. What amounts to a "charge" must in the absence of a definition in the Code itself depend largely upon the circumstances, and it is, therefore, impossible to lay down any general rule. But I accept what I understand to be substantially the view taken in *Chenna Malli Gowda* v. *Emperor* (1), and also in *Chinna Ramana Gowd* v. *Emperor* (2), that a false "charge" must be made to an officer or to a court who has power to investigate and send it for trial, and if it is made to such a person then I think it comes within the section, and I adopt the view of Mr. Justice CHAMIER in *Zorawar Singh* v. *King-Emperor* (3), that there being no definition of the word "charge" and there being no procedure of the nature of a "charge" in the Indian law, the question is, whether the accusation is made with the intention to set the law in motion. That, however, is not sufficient to dispose of this case. In this case what the accused said to the officer in charge was "I find there has been a theft, I suspect the persons named, and I want an inquiry to be made." I think it would be straining this language to hold that it amounts a charge. If it was false, then it was a false report made to the officer under section 182. I therefore quash the conviction, without prejudice to any proceedings which it may be thought right to bring against the accused under section 182, with just a word or two of warning. The observation made by the appellant's counsel before me is a just observation, namely, that if there was ill-feeling between him and these four persons, that leads just as forcibly to the inference that he honestly believed that they had done what had happened if what he alleges had really taken place, as to the other inference which the court below has drawn that the charge was necessarily false. The court below must, I think, in dealing with

(1) (1904) I. L. R., 27 Mad., 129. (2) (1908) I. L. R., 31 Mad., 506.

(3) (1911) 8 A. L. J., 1106.

the case under section 182, be satisfied beyond doubt that Mathura Prasad had no reasonable ground at all for believing that an attempt had been made upon his property and that the whole story was an invention.

Rule made absolute. Conviction quashed.

REVISIONAL CIVIL.

Before Mr. Justice Piggott.

1917 *July, 4.*

BODLU BHONJA AND OTHERS (PLAINTIFFS) *v.* MOHAN SINGH AND ANOTHER (DEFENDANTS)*

Civil Procedure Code (1908), *section* 11—Res judicata—*Act No. I of* 1877 (*Specific Relief Act*), *section* 9—*Suit for possession in Munsif's court—Subsequent suit for damages in Court of Small Causes.*

The plaintiffs filed a suit under section 9 of the Specific Relief Act, 1877, in the Court of a Munsif, and obtained a decree on the finding that they had in fact been wrongfully dispossessed by the defendants. They then sued in a Court of Small Causes for damages on account of the same wrongful dispossession. *Held* that the finding of the Munsif that the plaintiffs had in fact been dispossessed was a *res judicata* in respect of the subsequent suit in the Court of Small Causes. *Ghulappa bin Balappa* v. *Raghavendra Swamirao* (1) and *Raja Simhadri Appa Row* v. *Ramachandrudu* (2) followed.

THE plaintiffs alleged that they were in possession of certain property from which the defendants wrongfully dispossessed them on the 29th of June, 1915; that thereupon the plaintiffs brought a suit for restoration of possession under section 9 of the Specific Relief Act, that in that suit it was clearly found, by the court's judgement, dated the 11th of May, 1916, that the defendants had wrongfully dispossessed the plaintiffs; and that on the strength of that judgement the plaintiffs recovered possession. They then brought the present suit in the Court of the Small Causes for the recovery of damages by way of mesne profits for the period of the dispossession. The Judge of the Small Cause Court framed one general issue and decided the suit as follows:—"The evidence produced on the plaintiffs' behalf is absolutely worthless and false. I decide the issue against the plaintiffs and dismiss the claim." The plaintiffs applied in revision to the High Court.

* Civil Revision No. 91 of 1917.

(1) (1904) I. L. R., 28 Bom., 338. (2) (1902) I. L. R., 27 Mad., 63.