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RAM DULARI  
v.  
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LAL.

point is that in *Hari Tiwari v. Baghumath Tiwari* (1). What that case seems to us to lay down is that, if the plaintiffs in a suit like the present were bound to rely solely upon a covenant of title, whether express or implied, it might be held that limitation ran against them from the date of the execution of the deed; but in that suit itself a distinction was drawn, and the plaintiffs were held to be within time, because they were not suing upon a mere covenant of title, and it was held that their cause of action arose long subsequently when they were dispossessed of a portion of land then in question.

Similarly, in the present case, it seems to us that the plaintiffs are entitled to rely upon the words already set forth as a covenant of indemnity and to bring a suit upon them from the date on which they suffered actual loss by reason of their being compelled to pay off the prior mortgage charge. The decision of the court below on the issue of limitation therefore appears to be substantially correct on the ground on which it proceeds, although the point was not fully argued. The appeal, therefore, fails and we dismiss it with costs.

*Appeal dismissed.*

## REVISIONAL CRIMINAL.

*Before Mr. Justice Piggott.*

MUHAMMAD ALI KHAN v. RAJA RAM SINGH.\*

*Criminal Procedure Code, section 250—Compensation—Accused tried on two charges and acquitted on one, but convicted on the other.*

Section 250 of the Code of Criminal Procedure is only applicable where the trying court discharges or acquits the accused altogether.

It cannot be made use of where the accused, being tried on two charges, is acquitted on one, but convicted on the other. *Mukti Bewa v. Jhotu Santra* (2) followed.

In this case one Raja Ram Singh was tried at one trial by a magistrate of the first class on two charges framed under section 508 and section 500 of the Indian Penal Code. He was acquitted on the former and convicted on the latter charge. The complainant, Muhammad Ali Khan, was ordered to pay compensation to the extent of Rs. 25 to Raja Ram Singh on the ground that

\* Criminal Revision, No. 138 of 1918, from an order of S. S. Nehru, Magistrate, First Class, of Azamgarh, dated the 29th of October, 1917.

(1) (1888) I. L. R., 11 All., 27.

(2) (1896) I. L. R., 24 Calc., 58.

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the charge of criminal intimidation was frivolous or vexatious. Against this order Muhammad Ali Khan applied in revision to the High Court.

Maulvi *Iqbal Ahmad*, for the applicant.

Babu *Piari Lal Banerji*, for the opposite party.

PIGGOTT, J. :—Raja Ram Singh was tried at one trial by a magistrate of the first class on two charges framed under section 503 and section 500 of the Indian Penal Code. He was acquitted on the former and convicted on the latter charge. The complainant, Muhammad Ali Khan, has been ordered to pay a compensation of Rs. 25 to Raja Ram Singh on the ground that the charge of criminal intimidation was frivolous or vexatious. The question I have to determine is whether this order is legal in view of the fact that Raja Ram Singh was convicted on one of the two charges against him. I must take it that the complainant's case was that the two offences in question were committed in the course of one series of acts so connected together as to form the same transaction, otherwise they would have been separately charged and tried separately. The provisions of section 250 of the Code of Criminal Procedure will not apply to such a state of facts unless the Magistrate who tried the case discharges or acquits the accused altogether. The section speaks of "the case" as a whole, and contemplates a trial or inquiry ending in the unqualified acquittal or discharge of the accused. A complainant who, having a genuine grievance, wilfully exaggerates or distorts the same in order to aggravate the case against the accused is liable, in the discretion of the trial court, to be prosecuted for any offence against the Indian Penal Code which he may have committed; but the policy of the Legislature seems to be to limit the summary jurisdiction of the court under section 250 of the Code of Criminal Procedure to simple cases, in which the complainant is found to have been wholly in the wrong. There is authority for this view in the case of *Mukti Bewa v. Jhotu Santra* (1). I think that case was rightly decided and that it covers the facts now before me.

I set aside the order directing Muhammad Ali Khan to pay Rs. 25 as compensation. The money, if paid, will be refunded.

*Order set aside.*

(1) (1896) I. L. R., 24 Calc., 53.

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