

court below, as against the defendant Musammat Janki, with this proviso, that the amount of the decree will be recoverable only from any self-acquired property of the deceased Baldeo which may be in the possession of this judgement-debtor.

1917

PAHALWAN  
SINGH  
v.  
JANKI.

*Decree modified.*

## REVISJONAL CRIMINAL.

*Before Mr. Justice Tudball and Mr. Justice Piggott.*

EMPEROR v. RAM SARAN LAL AND ANOTHER. \*

*Act No. II of 1899 (Indian Stamp Act), section 62; schedule I, article 5—  
Stamp—Petition to court intimating compromise of suit—Agreement.*

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August, 6.

The parties to a suit came to terms out of court, and presented a joint petition to the court stating the terms of compromise arrived at and asking that a consent decree might be given in accordance therewith.

*Held* that such petition was to be stamped merely as a petition to the court and did not require to be engrossed on a general stamp.

THE facts of this case were as follows :—

One of the accused, Sheo Narain, sued the other accused, Ram Saran Lal, in suit No. 977 of 1916 in the Munsif's court at Farukhabad to recover some money on the basis of a simple mortgage. The parties came to terms out of court. They agreed "orally" that the defendant was to pay down a certain part of the debt in cash; that the plaintiff was to have a decree for the rest of the money payable in annual instalments, and that in case of any default the plaintiff was to be able to execute his decree at once for the whole sum then due. The agreement was not reduced to writing. The parties walked into court and presented a petition to the Munsif praying that a decree might be passed in the case in the terms of the compromise at which they had arrived out of court, and in that petition they informed the court of the terms of the compromise. The court thereupon passed a decree in favour of the plaintiff, but it sent the petition to the stamp officer on the ground that it was an agreement which ought to have been stamped with a general stamp. The Collector directed the prosecution of these two persons for an offence under section 62 of the Act, and they were fined Rs. 5 each.

\* Criminal Reference No. 566 of 1917.

1917

EMPEROR  
v.  
RAM SARAN  
LAL.

The case was referred to the High Court by the Sessions Judge, who was of opinion that the document in respect of which the accused had been convicted was no more than a petition to the court and only required an ordinary court fee label.

The applicants were not represented.

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

TUDBALL and PIGGOTT, JJ.:—This is a reference by the Sessions Judge of Farrukhabad, in the case of two persons, Ram Saran Lal and Sheo Narain, who have been convicted by a Magistrate under section 62 of the Stamp Act and have been sentenced to a fine of Rs. 5 each. The facts may be very briefly put as follows:—One of the accused, Sheo Narain, sued the other accused, Ram Saran Lal, in suit No. 977 of 1916 in the Munsif's court at Farrukhabad to recover some money on the basis of a simple mortgage. The parties came to terms out of court. They agreed "orally" that the defendant was to pay down a certain part of the debt in cash; that the plaintiff was to have a decree for the rest of the money payable in annual instalments, and that in case of any default the plaintiff was to be able to execute his decree at once for the whole sum then due. The agreement was not reduced to writing. The parties walked into court and presented a petition to the Munsif praying that a decree might be passed in the case in the terms of the compromise at which they had arrived out of court and in that petition they informed the court of the terms of the compromise. The court thereupon passed a decree in favour of the plaintiff, but it sent the petition to the stamp officer on the ground that it was an agreement which ought to have been stamped with a general stamp. The Collector directed the prosecution of these two persons for an offence under section 62 of the Act and they have now been fined Rs. 5 each. The learned Sessions Judge is of opinion that the document in question was a petition to the court requiring only a court fee stamp; that it was unnecessary to have it engrossed upon a general stamp at all; that the conviction was bad in law and should be set aside. In his referring order the Judge has referred to the decision in *Surju Prasad v. Bhawani Sahai* (1), and has distinguished that case from the facts of the

present case. We fully agree with him that the present is a totally different case to the one reported. The Madras High Court in volume 8, page 15, of the Indian Law Reports have gone perhaps a little further even than it is necessary for us to go in the present instance, but we agree that the document in the present case was merely a petition to the court informing it of an agreement into which the parties had orally entered out of court to compromise the suit, and praying for a decree in the terms of the compromise. As such the document did not require to be engrossed upon a general stamp but only required the ordinary court fee label. In our opinion the conviction in this case is bad in law. We set it aside and direct that the fines, if paid, be refunded.

1917

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 EMPEROR  
 v.  
 RAM SARAN  
 LAL.

*Conviction set aside.*

## REVISIONAL CIVIL.

*Before Justice Sir Pramada Charan Banerji.*

EMPEROR v JAGRUP SHUKUL.\*

*Criminal Procedure Code, section 195—Sanction to prosecute—Appeal against order refusing sanction—Munsif of Jaunpur—Additional Sessions and Subordinate Judge of Jaunpur—Act No. XII of 1897 (Bengal, Agra and Assam Civil Courts Act), section 21 (4).*

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 1917  
 August, 7.

*Held* that an application to revoke or grant a sanction for a prosecution granted or refused by the Munsif of Jaunpur would lie to the Additional Sessions and Subordinate Judge of Jaunpur.

*Held* also that a court to which such an application is made is competent to take additional evidence for the purpose of satisfying itself whether sanction ought or ought not to be granted. *Rahmat-ullah v. The Emperor* (1) followed.

THE facts of this case were as follows :—

A suit was filed in the court of the Munsif of Jaunpur which was dismissed on the 19th of November, 1914. An application was made to the Munsif of Jaunpur by the Government Pleader for sanction to prosecute the applicant under various sections of the Indian Penal Code, these being some of the sections mentioned in section 195 of the Code of Criminal Procedure. The application purported to be one under section 195, paragraph (1), clause (b), of the Code of Criminal Procedure. It was not an

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\* Civil Revision No. 103 of 1917.

(1) (1916) 82 Indian Cases, 157.