

in the position of an insolvent who has the means of ascertaining where property of his has been disposed of, even if he has not been actually a party to the making away with it, and who does not use the means, is just as guilty of concealment within the meaning of the section as if he actively concealed the locality in which the property actually is. It is by no means clear from the conduct of the insolvent and his sons that the grain was not still in the dump at the time of the receiver's visit, and had not been made away with at all. These proceedings ought not to deter the receiver from taking such steps as are still open to him under the Act to recover the property from whomever it may be who has received it, either by way of sale, or for custody on behalf of the insolvent and of his sons. Unfortunately there seems to be no provision in the Provincial Insolvency Act, as there is in the English Act, enabling the receiver to call the sons before him and to compel them to answer questions on oath as to the disposition of their father's property. Under these circumstances, and having regard to the undoubted frauds which are committed against the Bankruptcy Law by joint Hindu families, although the insolvent here is a Muhammadan, we think that the sentence passed in this case was an extremely lenient one. He certainly would not have got off so lightly if he had come before one of us. It is a very serious offence and District Judges must realize that it ought to be visited with severity when discovered. The appeal is dismissed with costs.

Appeal dismissed.

REVISIONAL CIVIL.

Before Mr. Justice Gokul Prasad.

RAM CHARAN AND ANOTHER (APPLICANTS) v. MEWA RAM (OPPOSITE PARTY).*

Criminal Procedure Code, section 195, clauses (6) and (7)—Sanction to prosecute—Sanction granted by Munsif—Jurisdiction of Additional District Judge to revoke sanction where an appeal in the suit has been assigned to him by the District Judge.

An Additional District Judge, having all the powers of the District Judge in respect of cases assigned to him by the District Judge, is competent to revoke a sanction to prosecute granted by a Munsif in a case which is before him in appeal. *Mutsuddi Lal v. Muls Mal* (1) referred to.

* Civil Revision No. 6 of 1920.

(1) (1913) 9 A.L.J., 95.

1921

IN THE
MATTER OF
QASIM ALI.

1921
January, 14.

THE facts of this case sufficiently appear from the order of the Court.

Munshi *Balshwari Prasad*, for the applicants.

Babu *Binoy Kumar Mukerji*, for the opposite party.

GOKUL PRASAD, J. :—This application for revision arises out of proceedings taken under section 195 of the Code of Criminal Procedure. The opposite party decree-holder put in an application for execution. The judgment-debtors objected and it was found that some of the allegations made by the decree-holder in that application for execution were incorrect. The judgment-debtors thereupon applied for sanction to prosecute the decree-holder under section 193 of the Indian Penal Code. The Munsif granted the application. An appeal was preferred to the District Judge which he transferred to the Additional District Judge for disposal. He allowed the appeal and dismissed the application for sanction to prosecute. The judgment-debtors come here in revision and their contention before me is that the Additional District Judge had no jurisdiction to hear the appeal, regard being had to the provisions of section 195, clauses 6 and 7, of the Code of Criminal Procedure. Under the said clauses the order granting sanction can be challenged in the court to which an appeal ordinarily lies from the decision of the lower court. It has to be borne in mind that proceedings taken by a Civil Court under section 195 of the Code of Criminal Procedure are, in appeal and revision, deemed by this Court to be proceedings of a civil nature and are, therefore, governed by the rules relating to civil cases. Ordinarily when a District Judge transfers cases to an Additional District Judge for disposal, the Additional District Judge has the same powers in deciding those cases as the District Judge himself has. I see no reason why in the present case, which had been transferred by the District Judge to the Additional District Judge for disposal, the powers of the latter should be deemed to be more circumscribed than those of the District Judge himself. I think the Additional District Judge was fully seised of the case and as such had jurisdiction to pass such orders as he thought proper. For a similar case see *Mutsaddi Lal v. Mule Mal* (1). The application in revision fails and is dismissed with costs.

Application dismissed.

(1) (1912) 9 A. L. J., 95.

1921

RAM
CHARAN
v.
MEWA RAM.