

case had been decided, he put the inquiry through as expeditiously as he could. I am perfectly ready to examine the matter upon its merits. For obvious reasons—largely in the interests of the applicant himself—I do not propose to arrive at a definite conclusion. If I were satisfied with Mr. Sarju Prasad's reasons for believing the patwari to be telling the truth and for believing the entries made in the patwari's records to be correct and genuine entries, or considered his reasons of such weight as practically to conclude the matter, I should have had no hesitation in setting aside this order, and if I were satisfied that Mr. Parmanand Singh had passed the order under section 476 of the Code of Criminal Procedure for insufficient reasons, I should have been ready, apart from anything which Mr. Sarju Prasad had said, to set aside that order. But upon the merits I do not find Mr. Sarju Prasad's reasons convincing, and I find Mr. Parmanand Singh's proceedings to have been most careful and his order to have been well thought out. It would be unfair to the applicant to carry the matter further. For the above reasons, I dismiss this application.

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EMPEROR
SUNDAR LAL.

Application dismissed.

REVISIONAL CIVIL.

Before Mr. Justice Gokul Prasad.

RAM SAHAI, CHHIDDA LAL (PLAINTIFFS) v. THE EAST INDIAN RAILWAY COMPANY (DEFENDANT).*

1922
April, 19

Act No. IX of 1890 (Indian Railways Act), section 77—Suit against a railway—Notice of suit—Notice to be served on the Agent of the defendant railway.

The notice required by section 77 of the Indian Railways Act, 1890, as a condition precedent to the institution of a suit for damages against a Railway Company must be served on the Agent, and cannot be replaced by a notice served on the Divisional or General Traffic Manager. *Great Indian Peninsula Railway Company v. Chandra Bai* (1) and *Great Indian Peninsula Railway Company v. Ganpat Rai* (2) referred to.

THE facts of this case, so far as they are necessary for the purposes of this report, appear from the judgment of the Court.

Munshi Panna Lal, for the petitioner.

Pandit Ladli Prasad Zutshi, for the opposite party.

GOKUL PRASAD, J. :—The plaintiff applicant despatched

* Civil Revision No. 151 of 1921.

(1) (1906) I. L. R., 28 All., 552.
(2) (1911) I. L. R., 33 All., 544.

1922

RAM SAHAI,
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RAILWAY
COMPANY.

two consignments of brassware from Delhi to Aligarh, on the 20th of April, 1920. These consignments did not arrive at their destination, and the plaintiff, after correspondence with the Divisional Traffic Manager, Cawnpore, served a notice on the Agent of the East Indian Railway Company on the 6th of December, 1920 admittedly more than six months after the delivery of goods. The plaintiff thereupon instituted the present suit for recovery of damages for loss of goods. He was met with an objection by the defendant East Indian Railway to the effect that the suit did not lie, as the notice contemplated by section 77 of the Railways Act, No. IX of 1890, had not been given.

The learned Judge of the Court of Small Causes has come to the conclusion that the notice which had to be given in the present case under section 77 of the Railways Act was a notice to the Agent of the Company and that any correspondence with or notice to the Divisional Traffic Manager at Cawnpore would be of no avail. It is true that the notice contemplated by section 77 of the Indian Railways Act and, having regard to section 140 of the same Act, in the case of State Railways managed by a company, is served on the Government or on the Agent of the company managing the railway or the Manager of the Government. In the present case, whatever interpretation might be put on the correspondence between the Divisional Traffic Manager and the plaintiff, it cannot amount in law to a notice on the Agent of the defendant company. This point is covered by the case of *Great Indian Peninsula Railway Company v. Chandra Bai* (1), where the plaintiff had given notice to the General Manager, and in that case it was held that it was not equal to a notice on the Agent as contemplated by the aforesaid sections, so that on this point the trial court was correct.

The other point argued before me was that having regard to the terms printed on the back of the receipt given by the Railway, no notice was necessary. A reference was made to paragraph No. 5, commencing with the words "all claims etc.", and it was argued that having regard to this special condition, the notice contemplated by section 77 of the Indian Railways Act was not necessary. This point, too, has been the subject of a decision of this Court; see the

Great Indian Peninsula Ry. Co. v. Ganpat Rai (1). and a Bench of this Court has held that a condition like that does not absolve the person who claims to make the Railway Company liable from the necessity of giving the notice contemplated by section 77 of the Indian Railways Act. This ground of attack also fails. I, therefore, dismiss this application for revision and confirm the decree of the trial court with costs.

1922

RAM SAHAI,
CHHIDDA
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v
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RAILWAY
COMPANY.

Application dismissed.

REVISIONAL CRIMINAL.

Before Mr. Justice Stuart.

EMPEROR *v.* INCHA RAM.*

1922

April, 21.

Act No. XLV of 1860 (*Indian Penal Code*), section 182—*False information given to the police with the object of having a charge brought against a certain person.*

Where a person falsely gave information to the police that a horse belonging to him had strayed, when in fact he had sold it some time previously, and did this with the intention that a charge should be brought against the purchaser :

Held that the giver of such information was rightly convicted under section 182 of the Indian Penal Code.

THIS was a reference made by the Sessions Judge of Moradabad under section 435 of the Code of Criminal Procedure. The facts of the case sufficiently appear from the judgment of the Court.

Referring Order :—“ The applicant in this case, Incha Ram, has been convicted in a summary trial under section 182 of the Indian Penal Code and has been sentenced to one month’s rigorous imprisonment. The facts as found by the Magistrate are as follows :—On the 31st of December, 1921 the applicant reported at the thana that his horse had strayed from the jungle on the previous day. An inquiry was made by the police and the chaukidar of the village reported that some months before Incha Ram had sold the animal to one Chadammi Lal, who is said to be his cousin, and that Chadammi Lal on the 26th of December, 1921 had sold it at Rith cattle market to a third person. After the institution of proceedings under section 182 of the Indian Penal Code ~~Incha Ram~~ brought a case against Chadammi Lal under sections 379/411 of the Indian Penal Code. In that case the

* Criminal Reference No. 184 of 1922.

(1) (1911) I. L. R., 38 All., 544.