1929

BAIJNATH v. DHANI RAM.

All that the learned Judges held was that the procedure of dismissing the respondent's appeal before the lower appellate court was not a right procedure, and that the proper thing to do would be to "stay issuing the decree in favour of the respondent, if such should be passed, until such time as the additional court fee due by him may be paid". As we read the judgement, the learned Judges never indicated that this was the only way of bringing pressure on the respondent to make good the deficiency. The Court Fees Act does not provide any means by which the deficiency in court fee can be realized. The courts have always taken it upon themselves to realize it by such lawful means as might be open to them. One of us and the learned CHIEF JUSTICE, sitting together, have more than once held that one of the ways that was open to the court of enforcing payment would be not to hear the counsel for the respondent who was in contempt. We followed this procedure and refused to hear the respondent's counsel in second appeal.

In the result, the appeal is dismissed but without costs.

APPELLATE CRIMINAL.

Before Mr. Justice Dalal.

1929 *April*, 9.

EMPEROR *v.* SIS RAM AND OTHERS.*

Indian Penal Code, section 366A—Procuration of minor girl—Offering the girl to several persons successively for sale—Whether fresh offence for each offer.

An offence under section 366A, Indian Penal Code, is one of inducement with a particular object, and when after the inducement the offender offers the girl to several persons a fresh offence is not committed at every fresh offer for sale.

* Criminal Appeal No. 98 of 1929, from an order of D. C. Hunter, Sessions Judge of Moradabad, dated the 17th of December, 1928.

Jail Appeal; the appellant was not represented.

The Government Pleader (Mr. *Sankar Saran*), for the Crown.

DALAL, J. :—The case is a very clear one. All the appellants have been rightly convicted, and I dismiss the appeal. What delayed my decision for a considerable time was by reason of a second similar charge against Sisram and Debi for seducing the same girl. This refers to appeal No. 97. The learned Judge has not explained the circumstances. What the learned Government Pleader and I gather is that Sisram and Debi were separately tried for offering the girl after seduction to separate persons for sale. An offence under section 366A, however, is one of inducement with a particular object, and when after inducement the offender offers the girl to several persons a fresh offence is not committed at every fresh offer for sale. Several offers for sale evidence the criminal intention of the offender just as much as one offer for sale. Under the circumstances once Sisram and Debi were convicted of seducing the girl, they could not be convicted over again for the same seduction unless in a case where the girl had returned to her parents and then subsequently there had been a fresh seduction. Such is, however, not the case in appeal No. 97. The conviction in the case of appeal No. 97 would have been fully justified if there had not been a previous conviction in appeal No. 98. Under section 397 of the Code of Criminal Procedure this Court has power to direct separate sentences of separate trials to run concurrently. The order in appeal No. 97, therefore, shall be that the sentence in that case shall run concurrently with the sentence in appeal No. 98, and that otherwise the appeal is dismissed.