

The question of the sale of a specific plot by a co-sharer is in our opinion similar. If a co-sharer chooses to sell a specific plot, then that plot must still be considered as part of his share for the purpose of a suit for profits. Otherwise it would be possible for co-sharers to sell specific plots with the result that a co-sharer not in possession of specific plots would be altogether deprived of any benefit from his share in the mahal. These are the general principles which we consider should govern a suit where such questions arise.

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Accordingly we remand this case to the lower appellate court for disposal in view of the law which we have laid down. Costs here and hitherto will abide the result.

### REVISIONAL CRIMINAL.

*Before Mr. Justice Pullan.*

EMPEROR v. ALLAH BAKHSH\*

*Criminal Procedure Code, section 421—Jail appeal—Summary dismissal—Reasons need not be given in judgment.*

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A court summarily dismissing, under section 421 of the Criminal Procedure Code, an appeal received from jail is not required by law to give any reasons for the dismissal, and the omission to do so is no ground for revision.

*Queen-Empress v. Nannhu* (1), referred to.

Mr. *Mansur Alam*, for the applicant.

The Assistant Government Advocate (Dr. M. *Waliullah*), for the Crown.

PULLAN, J. :—This is an application in revision of an order of the Additional Sessions Judge of Meerut rejecting summarily an appeal received from the jail.

\*Criminal Revision No. 20 of 1931, from an order of Aghor Nath Mukerji, Additional Sessions Judge of Meerut, dated the 16th of September, 1930.

1931

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EMPEROR  
v.  
ALLAH  
BAKSH.

The court was doubtless acting under section 421 of the Code of Criminal Procedure which lays down that a Judge on receiving such a petition shall peruse the same, and if he considers that there is no sufficient ground for interfering he may dismiss the appeal summarily. The same section lays down in clear words that the court hearing such an appeal is not bound to call for the record in the case. I have been referred by the learned counsel to a Full Bench decision of the Allahabad High Court passed three years before Act No. V of 1898 was enacted, *Queen Empress v. Nannhu* (1), which shows that at that time this Court thought that it was advisable for a court rejecting an appeal summarily to give some reasons. But that opinion of the Full Bench of this Court was not incorporated in the subsequent Code of Criminal Procedure. The law, in my opinion, does not mean to fetter the discretion of a court receiving such jail appeals and there is no ground of revision arising from the action of the learned Additional Sessions Judge in this case. I have been into the case on its merits and I find that the order rejecting the appeal summarily was, in the circumstances of the case, the only, proper order which the court could have passed. I dismiss this application.

(1) (1895) I.L.R., 17 All., 241.