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acts under section 30(2), future interest already allowed by the decree cannot be reduced, if it does not exceed interest which the court can award under section 30(1) of the U. P. Agriculturists' Relief Act.

In the view already expressed, the order of the lower court is without jurisdiction so far as it awards interest at the scheduled rate for the period anterior to the 1st of January, 1930, and so far as it reduces future interest from 8th May, 1935, at the rate of 3 per cent. per annum. Future interest at the rate of 6 per cent. per annum, awarded by the decree, shall stand. Counsel on both sides agree that, in the view I have taken, interest on the principal amount, namely Rs.300, shall stand at the rate of 12 per cent. per annum, compoundable every six months, up to 31st December, 1929, after which it should run at the rate of 7 per cent. per annum, compoundable every year, up to the 12th July, 1932, after which future interest at the rate of 6 per cent. shall run till the date of realisation. Future interest will, however, be calculated on the aggregate amount due on the 12th July, 1932, and not merely on the principal sum. The applicants shall have their costs of this revision.

APPELLATE CIVIL

1937
 April, 15

Before Mr. Justice Thom and Mr. Justice Bennet

SHANKAR LAL v. EMPEROR AND ANOTHER*

Criminal Procedure Code, sections 195, 476, 476A—Indian Penal Code, sections 193, 471—Fabricating false evidence and using forged receipts in small cause court—Filing revision and relying on them in High Court—Offences committed in High Court as much as in lower court—Complaint by High Court for prosecution—Jurisdiction.

The defendant to a suit on a promissory note in a small cause court filed two receipts of part payments, purporting to be signed by the plaintiff. The court found upon the

*Appeal No. 30 of 1936, under section 10 of the Letters Patent.

evidence that the receipts were forgeries, and decreed the suit in full. The defendant filed a revision in the High Court and the Judge of the High Court, after further inquiry as well as consideration of the evidence already on the record, agreed with the view of the lower court, and directed that a complaint against the defendant for offences under sections 193 and 471 of the Indian Penal Code be filed through the Registrar of the High Court:

Held that offences under sections 193 and 471 of the Indian Penal Code were committed not only in the trial court but were committed also in the High Court when the defendant relied upon and "used" the forged receipts in the civil revision in that Court. The High Court therefore had jurisdiction under section 476 of the Criminal Procedure Code to take proceedings thereunder, and cognizance of the offences could be taken upon the complaint by the High Court in accordance with section 195(1)(b) and (c) of the Criminal Procedure Code.

In the view that the offences were committed in the High Court, as well as in the lower court, sections 195(3) and 476A of the Criminal Procedure Code had no application to the case, and the court of the District Judge was not the only court, besides the trial court, which could make the complaint.

Mr. M. L. Chaturvedi, for the appellant.

Mr. Muhammad Ismail (Government Advocate), for the Crown.

THOM and BENNET, JJ.:—This is an appeal against the order of the CHIEF JUSTICE directing the Registrar of the High Court to make a complaint against the applicant in Civil Revision No. 85 of 1935, Shankar Lal, for offences under sections 193 and 471 of the Indian Penal Code to a Magistrate of the first class having jurisdiction.

Shankar Lal was the defendant in a suit filed upon the basis of a promissory note which was executed on the 14th of October, 1928. The suit was filed on the 8th of February, 1934. In his defence the defendant pleaded that two payments had been made towards the amount due under the promissory note; one of Rs.400 on the 24th of July, 1933, and one of Rs.250

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on the 8th of December, 1933. The plaintiff averred that no such payments had been made by the defendant. The defendant supported his averments in regard to these payments by the production of two receipts, Exhibits A and B, which purport to bear the signature of the plaintiff. A handwriting expert in the trial court deposed that the signatures on Exhibits A and B were forgeries. The small cause court Judge who heard the case recorded his opinion as follows: "Handwriting expert reported on 19th December, 1934, that the receipts, Exhibits A and B, do not bear signatures of the plaintiff. He was cross-examined but was not shaken a bit. The witnesses of the defendant do not appear to be truthful. Considering all the evidence on the record I hold that Exhibits A and B are forged documents and the allegation of the defendant that by means of these two receipts Rs.650 were paid to the plaintiff is wholly incorrect." Against the order of the small cause court Judge the defendant filed an application in revision. This application came before the CHIEF JUSTICE, who directed further inquiry in regard to the signature on Exhibit A. The handwriting expert furnished a further report, and upon a consideration of that report and the entire evidence in the case the CHIEF JUSTICE came to the conclusion that it was expedient in the interest of justice that he should under section 476 of the Criminal Procedure Code direct proceedings against the defendant. He accordingly passed the order above referred to.

Learned counsel for the appellant contended that we should not proceed to dispose of this appeal since the receipt Exhibit A was not before us. He maintained that if the receipt were here he would be in a position to satisfy us that there was no foundation for the finding that the signature thereon was a tracing of the admitted signature of the plaintiff. We do not consider that there is any force in his contention. We have to decide whether upon the evidence which was before the CHIEF JUSTICE there was a *prima facie* case

for directing proceedings under section 476 of the Criminal Procedure Code. We are satisfied that there was such a *prima facie* case. There was the evidence of the handwriting expert in the trial court and there was the report of the same handwriting expert which was furnished to this Court. Furthermore the CHIEF JUSTICE had the opportunity of comparing the signature upon the receipt with the admitted signature of the plaintiff. In these circumstances we consider that it is unnecessary to recall the receipt from the Magistrate to whom it appears to have been sent and that we may now dispose of this matter.

Learned counsel for the appellant took the plea that this Court has no jurisdiction in an application in civil revision to order proceedings under section 476 in respect of the alleged offences under sections 193 and 471 of the Indian Penal Code. His argument was that inasmuch as the offences alleged to have been committed have been committed in the small cause court, the only court which has jurisdiction to direct proceedings under sections 193 and 471 of the Indian Penal Code is the trial court or the court of the District Judge in view of the terms of section 195 of the Criminal Procedure Code. In support of this contention learned counsel referred to the provisions of section 476A of the Criminal Procedure Code. In our opinion there is no force in this argument. Offences under sections 193 and 471 of the Indian Penal Code were no doubt committed in the trial court, that is if Exhibits A and B are forgeries. It cannot be contended, however, that these offences were not committed in this Court when the applicant relied upon Exhibits A and B in his application in civil revision. Section 193 of the Indian Penal Code is in the following terms: "Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment etc."

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Assuming that Exhibit A was a forgery, it was relied upon by the applicant in his application in civil revision, which is a stage of a judicial proceeding. It cannot be maintained therefore that if Exhibit A is a forgery the applicant did not commit an offence under section 193 of the Indian Penal Code in this Court.

Section 471 of the Indian Penal Code is in the following terms: "Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document." Clearly the appellant "used" Exhibit A in this Court.

Learned counsel for the appellant contended, as already observed, that in the present instance it was only the court of the District Judge which could direct proceedings against the applicant in view of the provisions of section 195(3) of the Code of Criminal Procedure. He referred in this connection to section 476A of the Code of Criminal Procedure. This section, he maintained, had the effect of restricting the wide terms of section 476. Clearly section 476A was intended only to give the court power to direct proceedings in respect of an offence which had not been committed in a proceeding before it, but which had been committed in a subordinate court, where the subordinate court had failed to take action under section 476. The point in issue came up for consideration in the case of *King-Emperor v. Syed Khan* (1). In that case a Full Bench of the Court decided that "There is no question that section 476 gives the High Court, as a superior court, full powers to lay a complaint in any and every case in which it appears expedient in the ends of justice to do so, and there is nothing in the Code to justify us in saying that that power and jurisdiction is taken away, because in cases of a complaint or for its refusal to lay a complaint by some

(1) (1925) I.L.R., 3 Ran., 303.

subordinate court, an appeal from that order is allowed." In our judgment the provisions of section 476 are perfectly plain and under this section this Court has jurisdiction to order proceedings thereunder as has been done by the CHIEF JUSTICE when the application in revision came before him for consideration. It has been the practice of this Court in the past to order such proceedings and counsel for the appellant was unable to direct our attention to any case in which the jurisdiction of the Court to order such proceedings had been challenged.

During the course of his argument counsel for the appellant referred to the merits of the case. We do not consider it necessary or expedient to make any pronouncement thereon.

In the result the appeal is dismissed.

On the filing of this appeal the Court ordered stay of proceedings. This order is discharged. These proceedings in the circumstances may, although the alleged offence was committed in the High Court of Allahabad, be continued in the court of the Magistrate to whom complaint has been made pursuant of the order of the CHIEF JUSTICE. We order accordingly.

APPELLATE CRIMINAL

Before Mr. Justice Collister and Mr. Justice Bajpai

EMPEROR v. BISHAN SAHAI VIDYARTHI

AND OTHERS*

1937
April, 21

Criminal Procedure Code, sections 233, 235(1), 537—Misjoinder of charges and of accused persons—Conspiracy—Acts done in pursuance of conspiracy as well as individual acts outside the conspiracy—"Same transaction"—Joint trial—Illegality—Curable if no prejudice to accused or failure of justice—Companies Act (VII of 1913), sections 236, 237—Special law—Offence both under special law and general law—

*Criminal Appeal No. 249 of 1936, by the Local Government, from an order of Girish Prasad Mathur, Additional Sessions Judge of Agra, dated the 31st of October, 1935.

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