

STRAIGHT, J.—I am very clearly of opinion that this petition cannot be sustained. The main and indeed only point I have to consider is, whether, assuming that the charge of adultery alleged in regard to the petitioner and involved in the prosecution of Mr. Rutledge at Simla was preferred without reasonable and probable cause, and wilfully and maliciously, such act on the part of the respondent does or does not amount to legal cruelty, so as to entitle the petitioner to a judicial separation? To my mind, if all this were established, which for the purpose of argument is conceded by the counsel for the respondent, no case would be made out justifying the interference of this Court. Under these circumstances I have no alternative but to dismiss the petition, but no order will be made as to costs.

1882

 AUGUSTIN
 v.
 AUGUSTIN.

CRIMINAL JURISDICTION.

Before Mr. Justice Oldfield.

IN THE MATTER OF THE PETITION OF GANGA DAYAL AND OTHERS.

Pleader—Mukhtar—Illegal practising—Act XVIII of 1879 (Legal Practitioners' Act), ss. 10, 32.

 1882
 March 25.

A pleader or mukhtar practising in contravention of the provisions of s. 10 of Act XVIII of 1879 is punishable under s. 32 of that Act only by the Court before which he has so practised.

Two pleaders and a mukhtar, who had been duly authorized to practise in the Courts of the Cawnpore District, appeared in a case in the Court of the Deputy Magistrate at Kanauj, in the Fatehgarh District. For so doing they were convicted by the Magistrate of the Fatehgarh District, under s. 32 of Act XVIII of 1879, for acting in contravention of the provisions of s. 10. They applied to the High Court to revise the order of the Magistrate on the ground, amongst others, that he was not competent to proceed against them under s. 32 of Act XVIII of 1879, as they had not practised in his Court.

Mr. Ross, for the applicants.

The *Junior Government Pleader* (Babu Dwarka Nath Banarji), for the Crown.

OLDFIELD, J.—The objection to the conviction that the Magistrate had no jurisdiction is, in my opinion, valid. The conviction

1882

IN THE MAT-
TER OF THE
PETITION OF
GANGA
DAYAL.

is under s. 32, Act XVIII of 1879, for practising in the Court of the Subordinate Magistrate in contravention of the provisions of s. 10 of the Act. S. 32, however, renders a person practising in a Court liable by order of such Court to a fine. The Court in this instance, which might impose the fine, is that of the Subordinate Magistrate, and not that of the Magistrate of the District, who would not have jurisdiction under the terms of the section. The conviction is set aside and the fine will be refunded.

1882

April 1.

FULL BENCH.

Before Sir Robert Stuart, Kt., Chief Justice, Mr. Justice Straight, Mr. Justice Oldfield, Mr. Justice Brodhurst, and Mr. Justice Tyrrell.

SHOHRAT SINGH (DECREE-HOLDER) v. BRIDGMAN (JUDGMENT DEBTOR).*

Execution of decree—The decree to be executed, where there has been an appeal—Costs.

Held that the decree of the Court of last instance is the only decree susceptible of execution, and the specifications of the decrees of the lower Court or Courts as such may not be referred to and applied by the Court executing such decree.

THIS was a reference to the Full Bench by Straight and Duthoit, JJ. The facts out of which the reference arose and the point of law referred are stated in the order of reference, which was as follows:—

STRAIGHT and DUTHOIT, JJ.—This is an appeal from an order of the Judge of Gorakhpur, reversing an order of the Munsif of Bansi, in the matter of an application of Shohrat Singh, for the execution of a decree held by him against John Hall Bridgman. The questions at issue between the parties were as regards the amount for which execution of decree should be allowed. We are concerned in second appeal with two items only, viz., (i) one of Rs. 404 (Rs. 101 a year for four years), which the Munsif allowed to the decree-holder as mesne profits of the Sadu Nagar ferry, but the lower appellate Court has disallowed; (ii) one of Rs. 40-4-0, on account of costs prior to decree, with interest (Rs. 33-12-0 principal, Rs. 6-8-0 interest).

* Second Appeal, No. 23 of 1881, from an order of R. F. Saunders, Esq., Judge of Gorakhpur, dated the 12th January, 1881, reversing an order of Maulvi Nazar Ali, Munsif of Bansi, dated the 18th August, 1880.