

seen and heard the witnesses, has necessarily had a better opportunity of judging of their relative credibility."

Mr. A. S. Reil, for the applicant.

OLDFIELD, J.—(After stating the contention on behalf of the applicant, and the observations of the Sessions Judge, continued:) This is in effect holding that the appellant should satisfy the Court that there are good reasons for interfering, and that in this case none such having been shown, the conviction is fit to be affirmed. I am of opinion that in thus dealing with the appeal the Judge is not in error, but has followed the course prescribed by the Criminal Procedure Code. It will be seen that s. 421 gives an Appellate Court a summary power of rejecting an appeal, if, after perusing the petition and copy of judgment, it considers there is no sufficient ground for interference; and if the appeal has not been rejected under the provisions of s. 421, the Appellate Court, under s. 423, after perusing the record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, may, if it considers there is no sufficient ground for interfering, dismiss the appeal. From the above provisions it is obvious that an appellant is not precisely in the same position before an Appellate Court as he is before the Court trying him, but must satisfy the Court that there is sufficient ground for interfering with the order of conviction; and if no sufficient ground is shown, it is the duty of the Appellate Court not to interfere. I am of opinion, therefore, that no case has been made out for revision, and the application is dismissed.

1883

EMPRESS
v.
SAJIWAN
LAL.

Before Mr. Justice Oldfield.

EMPRESS v. JAMNI.

1883
March 9.

False charge—Act. XLV. of 1860 (Penal Code), ss. 182, 211.

J complained to the police that she had been raped by *R*. The police having reported the charge to be false, criminal proceedings were instituted against her under s. 182 of the Penal Code. In the meantime *J* made a complaint in Court, again charging *R* with rape. This complaint was not disposed of, but the proceedings against her under s. 182 of the Penal Code were continued, and she was eventually convicted under that section.

Hall, setting aside the conviction and directing that *J*'s complaint should be disposed of, that such complaint should have been disposed of before proceedings were taken against her under s. 182.

1883
EMPRESS
v.
JAMNI.

THIS was a case reported to the High Court for orders, under s. 438 of the Criminal Procedure Code, by Mr. W. Barry, Sessions Judge of Jaunpur, at the instance of Mr. G. Dale, Magistrate of the Jaunpur district. The facts of the case, as stated by the Magistrate, were these:—Jamni reported at a police-station that she had been raped by one Ram Prasad. The police-officer in charge of the station investigated the case, and reported it as a false one to the District Superintendent. That officer requested the Deputy Magistrate having jurisdiction to prosecute the complainant under s. 182 of the Penal Code. The Deputy Magistrate issued a summons to Jamni to appear and answer a charge under that section. In the meantime Jamni presented a petition to the Deputy Magistrate, again preferring the charge of rape against Ram Prasad. Her statement was recorded on the back of the petition and further proceedings were post-poned pending the result of the case against her, for the hearing of which a day had been fixed. On that day Jamni was charged under s. 182 of the Penal Code, witnesses for the prosecution were heard, and Jamni's statement was taken, in which she still adhered to her original story. She named witnesses for the defence, who were summoned for a certain day, but all did not appear on that day. On that day the Deputy Magistrate convicted Jamni, and sentenced her to six weeks' rigorous imprisonment. The Magistrate of the District was of opinion that the proceedings of the Deputy Magistrate were irregular, on the ground that s. 182 of the Penal Code was wholly inapplicable to the case; and that Jamni having made a direct charge of rape, the Deputy Magistrate should have inquired into the case, and if he found that the charge was false, should have then directed a prosecution against her under s. 211 of the Penal Code, and that prosecution should have taken the form of an inquiry into a case triable by the Court of Session, seeing that the alleged false charge was an offence (rape) punishable with imprisonment of more than seven years. The Magistrate, therefore, considered that the Deputy Magistrate's proceedings should be quashed, and he should be directed to inquire into the charge of rape brought by Jamni, and according to the result of that inquiry, direct or not (as the case might be) proceedings to be taken against her under s. 211 of the Penal Code. The Sessions

Judge, in forwarding the case, remarked that, as Jamni had been convicted of giving false information to the police, s. 182 of the Penal Code was perfectly applicable. He referred, as supporting this view, to *Empress v. Radha Kishan* (1). He also remarked that, Jamni having given a petition to the Deputy Magistrate repeating the charge of rape, if this "criminal proceeding" was proved to be false, it would then appear that she would be punishable under s. 211; and that the question, whether it was incumbent on the Deputy Magistrate to hold an inquiry into the truth of the charge of rape, before proceeding under s. 182 or s. 211, had been ruled in the negative, citing *Empress v. Bhawani Prasad* (2).

OLDFIELD, J.—The Magistrate's view is correct; as Jamni had made a complaint in the Deputy Magistrate's Court, charging Ram Prasad with rape, that complaint should have been inquired into and disposed of before proceedings were taken against her under s. 182. The proceedings and conviction by the Deputy Magistrate are set aside. He will dispose of the complaint preferred by Jamni in due course of law.

1883
 EXPRESS
 D.
 JAMNI.

APPELLATE CIVIL.

1883
 March 12.

Before Mr. Justice Straight and Mr. Justice Oldfield.

DHARAM CHAND AND ANOTHER (DEFENDANTS) v. JANKI (PLAINTIFF).*

Hindu widow—Maintenance—Suit for maintenance fixed by decree—Small Cause Court suit—Jurisdiction—Liability of purchaser of ancestral property.

A suit by a Hindu widow for arrears of maintenance, based on a decree charging immoveable property with the payment of the maintenance allowance, is not a suit of the nature cognizable in a Court of Small Causes.

Pahlud Singh v. Ahlu Singh (3) followed.

A decree obtained by a Hindu widow for maintenance directed that certain ancestral property, which *D* and *S* had purchased, should be liable in their hands for the payment of the maintenance allowance. *Held* that the widow was not entitled, by virtue of such decree, to recover arrears of the allowance from *D* and *S* personally, after such property had left their hands.

* Second Appeal No. 1506 of 1882, from a decree of D. M. Gardner, Esq., Judge of Benares, dated the 25th July, 1882, affirming a decree of Babu Mritoujoy Mukarji, Munsif of Benares, dated the 14th March, 1882.

(1) I. L. R., 5 All., 36. (2) I. L. R., 4 All., 182.
 (3) N.-W. P. H. C. Rep., 1874, p. 91.