

1925
 KUNWAR
 LAL
 BAHADUR
 v.
 LALA
 BENI
 MADHO.

which passed the decree for execution the court to which it is transferred "shall have the same powers in executing such decree as if it had been passed by itself"—vide section 42 of the Code of Civil Procedure. We are, therefore, of opinion that the attachment made by the Subordinate Judge of Hardoi was made within jurisdiction.

The appeal fails and is dismissed with costs.

Appeal dismissed.

REVISIONAL CRIMINAL.

Before Sir Louis Stuart, Knight, Chief Judge.

1925
 November,
 19.

KANSHI RAM KHOSLA AND OTHERS (ACCUSED APPLICANTS) v. R. L. DIKSHIT (COMPLAINANT OPPOSITE PARTY.)*

Criminal Procedure Code—Revision against interlocutory orders—Interlocutory orders of a magistrate, appeal against—Appeal against the interlocutory order of a magistrate on the question of jurisdiction.

* Held, that there is no provision in the Code of Criminal Procedure for an interlocutory appeal against a magistrate's decision that he has jurisdiction in a case.

Held further, that there is ordinarily no justification for a supreme court or any other court to take up in revision what are really interlocutory matters in a criminal court.

Mr. *H. C. Dutt*, for Reference.

Dr. *J. N. Misra*, opposing the Reference.

STUART, C. J.: I refuse to interfere in this matter. I do not consider that there is ordinarily any justification for a supreme court or any other court to take up in revision what are really interlocutory matters in a criminal court. There is no provision in the Code of Criminal Procedure for an interlocutory appeal against a magistrate's decision that

* Criminal Reference No. 41 of 1925 by Fateh Bahadur Verma, First Additional Sessions Judge of Bara Banki, under section 433 of the Code of Criminal Procedure.

he has jurisdiction in a case. The question which is being agitated before me is whether the magistrate had or had not jurisdiction. If the authorities had intended that such an order should be liable to be questioned before the decision of the case provision should have been made to enable the order to be questioned in appeal at that stage. I can conceive few instances where any real advantage would be gained by interrupting the course of a criminal trial through bringing up such a matter to a court of appeal. There is nothing in the circumstances of this case which would justify me deciding the point under argument at this stage. The worst of a reference of this kind is this. If I decide the matter on the merits and say that the magistrate has no jurisdiction and close proceedings the applicant would undoubtedly be satisfied, but if I take the opposite view and decide that the magistrate had jurisdiction I am thereby intervening in a most improper manner on a point which may eventually have to be decided on appeal. In these circumstances I refuse to take any action and return the record and direct the magistrate to continue the trial of the case. I wish to make it absolutely clear that I express no opinion one way or the other as to whether he had jurisdiction or not.

Record returned.

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