

As we have been pressed to express some opinion regarding the effect of the Sessions Judge's order on the sanction given by the Magistrate to prosecute under section 211, Penal Code, we would merely say that as we understand the effect of the order of the Sessions Judge, it is to revoke the sanction given. The propriety of the order sanctioning the prosecution or revoking it is not before us.

1893

BIJANATH
PANDEY
v.
GAURI
KANTA
MANDAL.

Rule made absolute and order set aside.

H. T. H.

APPELLATE CIVIL.

Before Mr. Justice Macpherson and Mr. Justice Beverley.

ALTA SOONDARI DAS (PETITIONER) v. SRINATH SAHA
(OPPOSITE PARTY).*

1893
February 20.

Appeal—Appeal from order—Order to person holding certificate under Act XXVII of 1860 to furnish security where portion of the property held as security has been sold—Succession Certificate Act (VII of 1889).

An order by which a person who had obtained a certificate under Act XXVII of 1860 was directed to furnish security to the extent to which the security originally furnished had been diminished by the sale of a portion of the property is not an order from which an appeal lies either under Act XXVII of 1860 or Act VII of 1889.

IN this case a certificate under Act XXVII of 1860 was granted to the petitioner, as the widow of one Radha Nath Shaha, on 23rd of August 1889, on her furnishing security to the extent of Rs. 5,000, the grant being opposed by Srinath Saha. She furnished two sureties, who gave security to the extent of Rs. 2,500 each. Some of the property given by the sureties as security having been sold—that of one surety for arrears of Government revenue, and that of the other for arrears of rent under Regulation VIII of 1819, the petitioner was called on to show cause why she should not furnish security to the extent to which the former security had become diminished by the sale of the property offered as

* Appeal from Original Order No. 181 of 1892, against the order of J. Knox-Wight, Esq., District Judge of Jessore, dated the 19th February 1892.

1893

ALTA
SOONDARI
DASI
v.
SRINATH
SAHA.

security; and an order was made by the District Judge of Jessore that the petitioner should furnish such security.

From this order the petitioner appealed to the High Court.

Baboo *Boykant Nath Dass* for the appellant.

Baboo *Surendur Chunder Sen* for the respondent.

At the hearing a preliminary objection was raised that no appeal would lie from such an order.

The judgment of the Court (MACPHERSON and BEVERLEY, JJ.) was as follows:—

This is an appeal from an order by which the appellant, who had obtained a certificate under Act XXVII of 1860, was directed to furnish security to the extent to which the security originally furnished had been diminished by the sale of a portion of the property. We think that neither under Act XXVII of 1860 nor under the provisions of the present Act, VII of 1889, does an appeal lie from such an order. It is not an order relating either to the granting, refusing, or revoking of a certificate.

The appeal is rejected with costs.

Appeal dismissed.

J. V. W.

CRIMINAL REVISION.

Before Mr. Justice Trevelyan and Mr. Justice Rampini.

1893

March
24 & 27.

SHERU SHA AND OTHERS (PETITIONERS) v. THE QUEEN-
EMPRESS ON THE PROSECUTION OF RASHU GOSSAIN
(OPPOSITE PARTY).*

Criminal Procedure Code (Act X of 1882), ss. 161, 172—Statements of witnesses recorded by Police officers investigating under Chapter XIV of the Criminal Procedure Code—Police Diaries.

The privilege given by section 172 of the Code of Criminal Procedure does not extend to statements taken under section 161, but recorded in the diary made under section 172.

* Criminal Revision No. 88 of 1893, against the order passed by C. A. S. Bedford, Esq., Deputy Commissioner of Manbhum, dated the 7th of January 1893, affirming the order passed by Baboo Rakhai Mohan Banerjee, Deputy Magistrate of Purulia, dated the 1st of November 1892.