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We are of opinion that so far as the payment of interest is concerned, the acknowledgment in writing must be of the payment of interest "as such". The word "payment" in the proviso refers back to the section which it qualifies, and the words "as such" occur in relation to the payment of interest in the section itself. We are therefore of opinion that the view taken by the trial court is correct, and we accordingly dismiss the application with costs.

Application dismissed.

REVISIONAL CRIMINAL

*Before Mr. Justice Ziaul Hasan and Mr. Justice
A. H. deB. Hamilton*

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February,
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BADRI NATH (APPLICANT) v. SHEOPHAL (OPPOSITE-PARTY)*

United Provinces Village Panchayat Act (Local Act VI of 1920), section 71—Accused found guilty of offence under section 426, Indian Penal Code, by village panchayat and fined—Application by accused dismissed by Collector under section 71 of Panchayat Act—Revision, whether lies to Chief Court—Panchayat, whether a court.

The proceedings of a panchayat or of a Collector under section 71 of the Village Panchayat Act are not magisterial proceedings, that is to say, not proceedings of a criminal court which would be subordinate to the criminal jurisdiction of the Chief Court. There is nothing in that Act to indicate that a panchayat is in any way to be regarded as a court of law, but it corresponds more closely to a caste panchayat. It is not a court "constituted under any law other than this Code" as defined under section 6 of the Code of Criminal Procedure and is, therefore, not a body subject to the revisional jurisdiction of the Chief Court.

Mr. I. A. Abbasi, for applicant.

Mr. H. K. Ghosh, Assistant Government Advocate.
for opposite-party.

ZIAUL HASAN and HAMILTON, JJ.:—This is an application in revision against an order of the District Magistrate of Partabgarh dismissing under section 71 of the

*Criminal Revision No. 110 of 1938, of the order of Madan Mohan, Esq., Rai Bahadur, District Magistrate, Partabgarh, dated the 5th July, 1938.

Panchayat Act an application made to him by Badri Nath who had been found guilty of an offence under section 426 of the Indian Penal Code by a village panchayat and had been ordered to pay a fine of Rs.7.

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Although the District Magistrate described himself as such, he was really acting as Collector in view of section 71 of the Village Panchayat Act.

The first point for decision is whether an application in revision lies to this Court.

The learned Counsel for the applicant has referred us to *Emperor v. Kamlapati Panth* (1). In considering whether they had jurisdiction the learned Judges made certain observations while stating that they were not unaware that they would be in the nature of *obiter dicta*. They held that they would have little hesitation in coming to the opinion that a village panchayat constituted and held under Local Act VI of 1920 was a "court" and when dealing with a case with regard to an offence that it was criminal court. They held that section 53 which provided that there was no appeal or no revision except as provided in sections 49 and 71 of the Act dealt only with civil suits and there was no provision in the Act declaring that the Collector's order under section 71 in criminal proceedings should be final.

With all due respect to the decision of the learned Judges, we are unable to hold that a panchayat under this Local Act is a court over which we have any jurisdiction. We do not think that the mere fact that a panchayat consists of a number of individuals who decide matters of a criminal nature in itself constitutes such a panchayat a "court". It is well known that a caste panchayat for instance does punish members of that community for what we might perhaps term "moral offences" which are also offences under the Indian Penal Code. They deal, therefore, with certain criminal matters. but it cannot possibly be said that such a panchayat is a court over

(1) (1926) I.L.R., 48 All., 23.

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which we would have any jurisdiction. In this connection it may be interesting to refer to the United Provinces Village Courts Act of 1892 which has been abolished by the United Provinces Village Panchayat Act in such areas as it functions. The very title of the Act of 1892 contains the word "court" and the Presiding Officer is called a "Village Munsif". Revision lies from him to the District Judge. Although the Code of Civil Procedure, the Provincial Small Cause Courts Act and the Court Fees Act are excluded, yet that Act contains many sections dealing with procedure which are based on the Code of Civil Procedure. In the Village Panchayat Act, on the other hand the panchayat is never styled a court and such interference with its decision as is possible under section 71 is not by a District Magistrate in criminal matters nor by the District Judge in civil matters but by the Collector obviously not as a revenue court but in his executive capacity. We may note that under section 71(3) when an order has been passed by the Collector under sub-section (1) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a Magistrate having jurisdiction. Under (1) a Collector may—

- (a) cancel the jurisdiction of a panchayat,
- (b) quash any proceedings of a panchayat at any stage, and
- (c) cancel any order passed by a panchayat.

If a panchayat, as a criminal court convicted a person of an offence and the Collector as a criminal court set aside that order the case might be a "summons case" under the Criminal Procedure Code and the order of the Collector would amount to an acquittal in which case there could be no further proceedings before any Magistrate. This makes it clear, in our opinion, that the proceedings of a panchayat or of a Collector under section 71 are not magisterial proceedings, that is to say, not proceedings of a criminal court which would be subordinate to our criminal jurisdiction.

We may further note that under section 43 a panchayat is bound by no laws of evidence or procedure other than the procedure prescribed by or under this Act and this seems to be nothing more than keeping some very simple registers. Under section 52 no order of a panchayat can be called in question in any Court on the ground that it was passed without jurisdiction. We could not, therefore, if we claimed to exercise revisional powers, do so either on the ground of usurpation of jurisdiction by the panchayat or on the ground that it violated any law of evidence or law of procedure so that practically we could not interfere in any case in any way.

We may also note that a panchayat under Chapter VI of the Act also deals with sanitary and other local matters which have nothing to do with criminal or civil matters.

In short, we find nothing in the Act to indicate that a panchayat is in any way to be regarded as a court of law, but it corresponds more closely to a caste panchayat. We, therefore, are of opinion that it is not a court "constituted under any law other than his Code" as defined under section 6 of the Code of Criminal Procedure and is, therefore, not a body subject to the revisional jurisdiction of this Court.

We, therefore, dismiss this application.

Appeal dismissed.

APPELLATE CIVIL

*Before Mr. Justice G. H. Thomas, Chief Judge, and
Mr. Justice R. L. Yorke*

DEBI DAYAL AND ANOTHER (PLAINTIFFS-APPELLANTS) v. SRI
RADHA KRISHNA (DEFENDANT-RESPONDENT)*

1939
March, 9

Hindu Law—Hindu widow's power of transfer—Dedication by Hindu widow of three-fourths of her husband's estate to an idol with the consent of some of the reversioners—Reversioners giving consent, if can subsequently challenge the

*First Civil Appeal No. 46 of 1936, against the order of S. Abid Raza, Additional Subordinate Judge of Sitapur, dated the 27th January, 1936.