

**REVISIONAL CRIMINAL.**

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*Before Mr. Justice Harrison.*

WISHNU RAM—Petitioner,

*versus*

THE CROWN—Respondent.

Criminal Revision No. 391 of 1925.

1925

April 21.

*Criminal Procedure Code, Act V of 1898, section 195*

(b)—*Complaint—to be made by which Court.*

A decree for a portion of a claim disallowed by one Court was obtained by fraudulent means in another Court. The plaintiff was ordered to be tried for an offence under section 210, Indian Penal Code, on the complaint made by the first of the two Courts.

*Held*, that the proceedings must be quashed as action could only be taken by the second Court (in relation to whose proceedings the offence was committed) or by a Court to which both the Courts in question were subordinate.

*Application for revision of the order of Mian Ahsan-ul-Haq, District Judge, Dera Ghazi Khan, dated the 31st January 1925, affirming that of Sheikh Abdul Ali, Subordinate Judge, 4th class, Dera Ghazi Khan, dated the 14th October 1924.*

M. L. PURI, for Petitioner.

*Nemo*, for Respondent.

JUDGMENT.

HARRISON J.—The facts of this case are that Wishnu Ram instituted a suit for Rs. 113 in the Court of *Sheikh Abdul Ali*. He obtained a decree for Rs. 44 and the suit regarding the remainder of the claim was dismissed. He then proceeded to present a fresh plaint in the Court of the Khosa Tumandar for recovery of two out of three items which had been disallowed, and obtained an *ex-parte* decree. The judgment-debtor brought these facts to the notice of the

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original Court which took action under section 195, and made a complaint in writing under section 210, Indian Penal Code. An appeal was presented to the District Judge and was dismissed. The question is whether the institution of the second suit and the obtaining of a decree by fraudulent means, if proved, can be held to be an offence committed in relation to proceedings in the first Court. It is of course true to say that the dismissal of the claim in the first Court led to the presentation of the second plaint in the sense that it preceded the presentation, and that had the result of the first suit been a complete victory for the plaintiff, nothing more would have happened. At the same time I think it would be straining the meaning of the words of the section to hold that the bringing of the second suit related to the previous proceedings in the sense in which those words are used in section 195. The action to be regular should have been taken by the second Court or by the Court—whether it be that of the Senior Subordinate Judge or of the District Judge—to which they are both subordinate.

I accept the application for revision and quash the proceedings hitherto taken.

*N. F. E.*

*Revision accepted.*