that the police reported that no case of poisoning had been made out, and there is also the evidence of the two persons reported against who state that their names had been taken out of enmity. In *Sawminatha Thevan* v. *Emperor* (1) it was held that the mere communication of a suspicion to the police did not amount to a charge of a criminal offence. In the present case no criminal proceedings were instituted against any person and it cannot be said that any person was charged with having committed any offence.

I therefore allow the revision and setting aside the conviction and sentence acquit Abdul Ghafur and direct that he be released from his bail.

A. R.

Revision accepted.

LETTERS PATENT APPEAL.

Before Sir Shadi Lal, Chief Justice, and Mr. Justice LeRossignol.

1924

Oct. 29.

BULAQI SHAH AND SON—Appellants,

versus

THE COLLECTOR OF LAHORE—Respondent.

Letters Patent Appeal No. 176 of 1923.

Letters Patent Appeal—Whether competent against the decision of a Single Judge on a reference by the Commissioner under section 66 of the Income-tax Act, XI of 1922.

Held, that the decision of a Single Bench on a point of law referred to it by the Commissioner of Income-tax under section 66 of the Income-tax Act is not a judgment within the meaning of clause 10 of the Letters Patent, and the decision is therefore not open to appeal.

Tata Iron and Steel Co. Ltd. v. *Chief Revenue Authority, Bombay* (2), followed.

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(1) (1912) 14 I. C. 707. (2) (1923) I. L. R. 47 Bom. 724 (P. C.).

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BULAQI SHAH v. COLLECTOR OF LAHORE.

Appeal under clause 10 of the Letters Patent from the judgment of Mr. Justice Harrison, dated the 12th April 1923.

TIRATH RAM, for Appellants.

JAI LAL, Government Advocate, for Respondent.

The judgment of the Court was delivered by—

LEROSSIGNOL J.—This is an appeal from the decision of a Single Bench of this Court on points of law referred to it by the Commissioner of Income-tax, Punjab, under section 66 of the Income-tax Act of 1922, and the first matter for decision is whether an appeal under clause 10 of the Letters Patent is competent, in other words, whether the decision of the Single Bench is a " judgment " within the meaning of that word as used in the aforesaid clause 10.

The matter seems to us to be concluded by the decision of their Lordships of the Privy Council in *Tata Iron and Steel Company Limited* versus *Chief Revenue Authority of Bombay* (1).

In that judgment their Lordships came to the conclusion that the decision of a High Court upon a case stated and referred to it by the Chief Revenue Authority under the Income-tax Act is not a " final judgment, decree or order " within the meaning of clause 39 of the Letters Patent of the Bombay High Court but is merely advisory and not final.

On behalf of the appellant an attempt has been made to distinguish that ruling on the ground that the term employed in clause 10 of the Letters Patent is not " final judgment " but merely " judgment ". But if the *ratio decidendi* of their Lordships' ruling be considered it will be seen that no significance attaches to the absence of the adjective " final " from

(1) (1923) I. L. R. 47 Bom. 724 (P. C.).

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clause 10 of the Letters Patent. After analysing the nature and the character of the acts which the Income-tax Act authorizes the High Court to do, their Lordships came to the conclusion that " the decision of the High Court does not in any way enforce the discharge of the taxpayers' liability. It would appear clear to their Lordships that the word ' judgment ' is not here used in its strict legal and proper sense ". It is merely the expression of the opinions of the Judges who heard the case and the final conclusion is in the following words :—" It would appear to their Lordships that the decision, judgment or order made by the Court under section 51 of the Income-tax Act of 1918 (the equivalent of section 66 of the Income-tax Act of 1922) was merely advisory ".

If we apply in this case the same tests as were applied by their Lordships of the Privy Council to the case before them, we must hold that the decision by the Single Judge was merely advisory and could not be enforced by execution.

The decision of a Court made under section 66 of the Income-tax Act of 1922 does not, in our opinion, amount to a " judgment " within the meaning of clause 10 of the Letters Patent. We accordingly hold that no appeal is competent from the decision of the learned Judge and we dismiss this appeal with costs.

A. N. C.

Appeal dismissed.