

REVISIONAL CRIMINAL.*Before Sir Shadi Lal, Chief Justice.*

MANA RAM, Petitioner

versus

THE CROWN, Respondent.

Criminal Revision No. 610 of 1926.*Punjab Municipal Act, III of 1911, section 81—Penal provisions—civil debt—whether applicable to.*

The Magistrate ordered the petitioner to pay certain arrears alleged to be due to the Municipal Committee under a lease.

Held, that the Committee was not entitled to recover money due under a contract by setting in motion the penal provisions of section 81 of the Punjab Municipal Act, the dispute being one for determination by a Civil Court.

Case reported by Lt.-Col. F. C. Nicolas, Sessions Judge, Lahore.

Nemo, for Petitioner.

TIRATH RAM, for Municipal Committee, for Respondent.

ORDER OF THE SESSIONS JUDGE.

The case is referred for the orders of the Hon'ble Judges under the following circumstances:—

It appears that the petitioner and another entered into a contract with the Municipal Committee, Chunian, jointly taking a lease for certain tonga-stands within the limits of the Municipality, and agreeing to pay a certain sum as hire for the same.

The Municipal Committee, on the ground that the said sum due under that contract or lease had not been paid to them, took criminal action before the Magistrate which purported to be under section 81 of the Municipal Act, and which resulted in the above order.

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It does not appear that under the provisions of section 81 of the Municipal Act such sums can be recovered under the above procedure, that section being intended for the recovery of entirely different moneys that may be due to the Committee, as defined in that section.

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Lease-money that may be due (as in the circumstances of the present case) to the Committee from petitioner, by himself, or jointly with another, should form the subject-matter of an ordinary civil suit in the Civil Courts.

I am of opinion that the action of the Committee and the order of the Magistrate is illegal and unjustified.

I accordingly forward the papers for the order of the Hon'ble Judges, with a recommendation that the order of the Magistrate concerned be set aside.

ORDER OF THE HIGH COURT.

SIR SHADI LAL C. J.—The Municipal Committee of Chunian claims that a certain sum of money is due to it from the petitioner under a lease, but I do not think that the Committee is entitled to recover the debt by setting in motion the penal provisions of section 81 of the Punjab Municipal Act. The dispute is one between a creditor and a debtor for the recovery of money due under a contract and must be determined by a Civil Court.

SHADI LAL
 C. J.

I accordingly accept the recommendation made by the Sessions Judge and set aside the order of the Magistrate.

N. F. E.

Revision accepted.