1886.

IN RE ANANT RÁMCHANDRA LOTLIKAR.

that section, only if he had arrived at an opinion to that effect on the conclusion of the inquiry: see *In re Annápurnábái*(1). The Sessions Judge had no jurisdiction, therefore, to hear an appeal from the order, and his order in appeal must be annulled. We express no opinion on the question whether Mr. Doderet's order was a proper one, as that question is not now before us.

Order annulled.

(1) I. L. R., 1 Bom., 630.

REVISIONAL CRIMINAL.

Before Mr. Justice Birdwood and Mr. Justice Jardine.

QUEEN-EMPRESS *v.* PA'NDU VALAD GOPA'LA'.*

1886. *January* 8.

Criminal Procedure Code (Act X of 1882), Secs. 245 and 250—Vexatious complaint—Acquittal—Compensation.

Section 250 of the Criminal Procedure Code (Act X of 1882) authorizes the payment of compensation in cases where the accused has been acquitted, under section 245 of the Code, after the whole evidence in the case has been recorded.

Number v. *Ambu*(1) followed.

THIS was a reference by W. H. Propert, District Magistrate, Khándesh, under section 438 of the Criminal Procedure Code (X of 1882).

The reference was made under the following circumstances:—

A complaint having been lodged against the accused, it was duly inquired into by the Magistrate, who discharged the accused under section 245 of the Criminal Procedure Code (X of 1882). The Magistrate further held that the complaint was a frivolous one, and ordered Rs. 2 to be paid by the complainant to the accused as compensation under section 250 of the Criminal Procedure Code (X of 1882). This was recovered from the complainant, and paid to the accused.

The District Magistrate was of opinion that the order awarding compensation was improper; as after hearing the complainant's case the Magistrate had thought fit to require the accused

* Criminal Reference, No. 178 of 1885.

(1) I. L. R., 5 Mad., 381.

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to answer it. He referred to a ruling of the Madras High Court dated 22nd November, 1879.

There was no appearance.

Per Curiam.—As the Magistrate who tried the case, which was one "instituted upon complaint," acquitted "the accused under section 245" of the Criminal Procedure Code (Act X of 1882), and was of opinion that the complaint was "vexatious," his order, directing the complainant to pay compensation to the accused, was legal. The ruling of the Madras High Court, relied on by the District Magistrate, has been overruled by that Court (see *Number* v. *Ambu*[1]). It was, moreover, a ruling under section 209 of the Code of 1872, not under section 250 of the present Code, which authorizes the payment of compensation in cases where the accused has been acquitted under section 245 after the whole of the evidence in the case has been recorded.

(1) I. L. R., 5 Mad., 381.

APPELLATE CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justice Birdwood.

1885. *September 7.*

SHA'MRA'V PA'NDOJI AND OTHERS, (ORIGINAL PLAINTIFFS), APPLICANTS, *v.* NILOJI RA'MA'JI AND OTHERS, (OPPONENTS).*

Jurisdiction—Second Class Subordinate Judge—Subject-matter of suit under Rs. 5,000 *and within jurisdiction—Amount of decree with accumulations of interest exceeding Rs.* 5,000*—Application for execution—Second appeal—Extraordinary jurisdiction of High Court—Civil Procedure Code (XIV of* 1882*), Sec.* 622.

The plaintiffs obtained a decree in the Court of a Second Class Subordinate Judge for a sum less than Rs. 5,000, which with accumulations of interest subsequently exceeded Rs. 5,000. The plaintiffs applied in execution to recover the total amount. The application was rejected by the Subordinate Judge on the ground that the Court had no jurisdiction under section 24 of Act XIV of 1869. On appeal, the District Judge made an order confirming the decision of the Subordinate Judge. The plaintiffs filed a second appeal in the High Court.

Held, that no second appeal lay to the High Court from such an order; but, as the Subordinate Judge was wrong in refusing to exercise his jurisdiction, the High Court would give relief under the extraordinary jurisdiction conferred by section 622 of the Civil Procedure Code (XIV of 1882). The subject-matter of the

* Extraordinary Application, No. 154 of 1885.