

persons who have not been prosecuted (see *Reg. v. Holt*<sup>(1)</sup>); and the repetition of a common rumour, however prevalent, is not received as an excuse for its further promulgation (*Waithman v. Weaver*<sup>(2)</sup>); nor, according to the English law, is the recovery of damages against one journal accepted even as mitigation in an action against another journal for a repetition of the libel (*Reg. v. Kerr*<sup>(3)</sup>). It will be necessary, and we direct the Chief Presidency Magistrate to resume the consideration of the complaint in this case, directing his attention to the particulars thereof with reference to the principles we have indicated, and he will thereon give his decision on the complaint with regard to the following points:—1, the veracity and good faith of the complaint; 2, the legal responsibility of the persons accused, and each of them; 3, as to the fact of publication; and, 4, with regard to the nature of the publication as penally defamatory or otherwise. The order of the Magistrate dismissing the complaint is reversed, in order that he may proceed in the course we have thus prescribed.

1887.

IN RE  
HOWARD.*Order reversed.*

(1) 8 Cox. C. C., 411.

(2) 11 Price, 257, note.

(3) 8 C. &amp; P., 177.

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## APPELLATE CIVIL.

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*Before Sir Charles Sargent, Kt., Chief Justice, and  
Mr. Justice Nánábhái Haridás.*

MOHANLAL RAICHAND, (PLAINTIFF), v. VIRA' PUNJA' AND  
OTHERS, (DEFENDANTS).\*

1887.  
September 1.

*Jurisdiction—Civil Procedure Code (Act XIV of 1882), Sec. 15.*

The plaintiff, who was a money-lender residing within the limits of the Ahmed-ábád Cantonment, sued the defendants, who resided within the jurisdiction of the City Small Cause Court at the same place, upon a bond executed by them at the cantonment. He presented his plaint to the Cantonment Magistrate, whose pecuniary jurisdiction extended to Rs. 200 only; but that officer, being of opinion that the suit was cognizable by the City Small Cause Court, returned it to the plaintiff, who subsequently presented it to the Judge of the City Small Cause Court, whose pecuniary jurisdiction extended to Rs. 500. On reference by him to the High Court,

\* Civil Reference, No. 31 of 1887.

1887.

MOHANLAL  
RAICHAND  
v.  
VIRÁ PUNJÁ

*Held* that both the Courts had jurisdiction to try the suit, but that the Court of the Cantonment Magistrate was to be regarded as the Court of lower grade, and, therefore, under section 15 of the Civil Procedure Code (Act XIV of 1882), was the proper Court to try the suit.

*Dwárkanáth Dutt v. Bhatu Hawoldar* (1) referred to and followed.

THIS was a reference by Khán Bahádur Navroji Dorábji, Acting Judge of the Court of Small Causes at Ahmedabad, under section 617 of the Civil Procedure Code (Act XIV of 1882). It was as follows :—

“The plaintiff in this case sought to recover from the defendants the sum of Rs. 108, due on a bond dated 30th December, 1884. The plaintiff is a money-lender residing within the limits of the Ahmedabad Cantonment, and it is stated in the plaint that the defendants executed the bond at the cantonment, where the cause of action, therefore, arose. The defendants, however, are residents of Mauje Naroda, in Daskroi Táluka, within the jurisdiction of the City Small Cause Court.

“The plaintiff at first brought the plaint to be presented to the City Small Cause Court, but on learning that the Cantonment Magistrate also had jurisdiction, he presented the plaint there with an application to have it filed in that Court. The Cantonment Magistrate, however, returned the plaint with an endorsement on the plaintiff’s application that, according to section 8 of Act XI of 1865, the plaint should be filed in the City Small Cause Court. On the plaintiff’s presenting his plaint to the City Small Cause Court it was returned to him with an endorsement thereon that, according to section 15 of the Civil Procedure Code, the suit should be instituted in the Court of the Cantonment Magistrate. The plaintiff, therefore, again took the plaint to the Cantonment Magistrate, who returned it with an endorsement that, according to section 17 of the Civil Procedure Code, clause (b), the suit ought to lie in the City Small Cause Court.”

The plaintiff having re-presented his plaint in the City Small Cause Court, the latter referred the following questions to the High Court for decision :—

1. Is the Court of the Cantonment Magistrate at Ahmedabad with Small Cause Court jurisdiction within the cantonment up

(1) 22 Calc. W. R. Civ. Rul., 457.

to Rs. 200 to be considered a Court of "the lowest grade" within the meaning of section 15 of the Civil Procedure Code, in reference to the Small Cause Court at Ahmedabad, which also has jurisdiction within the cantonment?

1887.

MOHANLAL  
RAICHAND  
v.  
VIRAJ PUNJJI

2. And if so, whether the present plaint should not be filed in the Court of the Cantonment Magistrate at Ahmedabad?

*Mahádev Bháskar Chaubal* for the plaintiff:—Both the Courts have jurisdiction to try the suit. Under section 15 of the Civil Procedure Code (Act XIV of 1882) the suit should be instituted in the Court of the lowest grade competent to try the cause, and as the Court of the Cantonment Magistrate had jurisdiction up to Rs. 200, and the amount sued for did not exceed it, his Court was the proper Court. See *Dwárkanáth Dutt v. Bhatlu Hawoldar*<sup>(1)</sup>.

*Vishnu Krishna Bhátvadekar* for the defendant.

SARGENT, C. J.:—Both Courts had jurisdiction to try the cause—the Small Cause Court of the cantonment, because the cause of action arose within the local jurisdiction; and the Small Cause Court of the City, because the defendant resided there: but the former, whose jurisdiction only extends to Rs. 200, whilst that of the latter extends to Rs. 500, must, we think, be regarded as the Court of lower grade, and, therefore, under section 15 of the Civil Procedure Code (Act XIV of 1882), the proper Court to try the suit. See *Dwárkanáth Dutt v. Bhatlu Hawoldar*<sup>(1)</sup>.

(1) 22 Cal. W. R. Civ. Rul., 457.

## ADMIRALTY JURISDICTION.

*Before Sir Charles Sargent, Kt., Chief Justice, and Mr. Justices Farran.*

THE BOMBAY AND PERSIA STEAM NAVIGATION COMPANY,  
LIMITED, (PLAINTIFFS), v. THE S. S. "ZUARI", (DEFENDANT).\*

1887.  
April 26.

*Practice—Review of judgment—No appeal from order granting review—  
Civil Procedure Code (Act XIV of 1882), Sec. 629.*

No appeal lies from an order granting a review of judgment, except in the cases set forth in section 629 of the Civil Procedure Code (Act XIV of 1882).

In this suit, which arose out of a collision at sea, a decree for the plaintiffs was passed on the 14th April, 1887. On the 21st

\* Admiralty Suit No. 7 of 1886.