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 v.
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ment-debtor"; but although the title is derived from the judgment-debtor against his will, the purchaser's liability to be ejected none the less arises from the title which he has derived from the judgment-debtor.

We must, therefore, reverse the decree and dismiss the plaint so far as the thikáns which were not mortgaged are concerned. Appellant to have his proportionate costs throughout.

Decree reversed.

CRIMINAL JURISDICTION.

Before Mr. Justice Farran.

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July 2.

THE QUEEN EMPRESS v. JAMES INGLE.

Practice—Procedure—Jurisdiction—Prisoner charged with two offences one of which was committed outside jurisdiction—Objection taken before Magistrate—Subsequent objection taken at Sessions under Section 532 of Criminal Procedure Code—Commitment—Criminal Procedure Code (X of 1882), Secs. 531, 532.

The accused was charged under section 498 of the Penal Code (XLV of 1860) with having enticed away a married woman and under section 497, with having committed adultery. The woman, alleged to have been enticed away, resided in Bombay, but the alleged adultery took place at Khandála, outside the jurisdiction. At the enquiry before the Magistrate in Bombay, objection was taken to his jurisdiction with regard to the charge of adultery. The Magistrate, however, overruled the objection and committed the accused for trial.

At the trial an application was made, on behalf of the accused, under section 532 of the Criminal Procedure Code (X of 1882), that the commitment should be quashed and a fresh enquiry directed on the ground that an objection had been taken to the Magistrate's jurisdiction.

Held, refusing the application, that the commitment being an order (see *Queen Empress v. Thakur*(1)) under section 531 of the Criminal Procedure Code, the commitment should not be quashed unless a failure of justice would be caused by proceeding with the trial.

THE prisoner was charged, under section 498 of the Indian Penal Code (XLV of 1860), with having, on the 5th November, 1890, enticed away a married woman, and, under section 497, with having committed adultery. The married woman, with respect to whom

he was charged, resided in Bombay, but the offence of adultery was alleged to have been committed in Khandāla, outside the jurisdiction.

At the inquiry before the Magistrate in Bombay, objection was taken to his jurisdiction with regard to the charge of adultery. This objection, however, the Magistrate overruled, and he refused to make any note of the objection. He committed the accused for trial at the sessions on both charges.

The case now came on for trial at the Sessions.

Jardine (Lord *Colin Campbell* with him), for the accused, applied, under section 532 of the Criminal Procedure Code (X of 1882), that the commitment should be quashed and a fresh inquiry directed, on the ground that an objection to the Magistrate's jurisdiction had been made at the inquiry before him.

Robertson for the prosecution contended that section 531 of the Criminal Procedure Code (X of 1882) applied, citing the case of the *Queen Empress v. Thaku*⁽¹⁾, which decided that a commitment was an "order" within that section. He further contended that Bombay was the proper place for trying the charge of enticing, under section 498, and as the accused had been committed for trial both for that offence and the offence of adultery under section 497, by an order of commitment which could not be set aside, the trial for both offences should proceed. The accused and all the witnesses, except one, were residents of Bombay. He relied upon sections 526 and 531 of the Criminal Procedure Code (X of 1882). Under the Letters Patent the High Court has a final criminal jurisdiction in the Presidency and section 531 of the Code did not limit that jurisdiction.

FARRAN, J.—The case of the *Queen Empress v. Thaku*⁽¹⁾ decides that a commitment is an "order" within section 531. This section, I think, must be read as complete in itself and not as in any way cut down or limited by the proviso contained in the latter part of section 532. Section 531 applies solely to cases in which there is no jurisdiction by reason of the inquiry, trial or other proceeding being held in the wrong local area; but section 532 seems to refer to cases in which the Magistrate is competent

(1) I. L. R., 8 Bom., 312.

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to deal with the offences as having taken place within the local limits of his jurisdiction, but has no power to commit to the High Court or Court of Sessions either, because he is only a second class Magistrate, or for some reason other than that of local jurisdiction.

No failure of justice can be caused in this case by proceeding with the trial. The witnesses are here, and in every respect the trial may conveniently take place now. I must refuse to quash the commitment. In the event of a conviction, however, it may be desirable to reserve the point for the consideration of the Full Court.

Attorney for the prosecution:—Mr. A. F. Turner.

Attorney for the defendants:—Mr. Wilkin.

ORIGINAL CIVIL.

Before Mr. Justice Telang and Mr. Justice Farran.

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August 31.

THE GOCULDA'S BULABDA'S MANUFACTURING COMPANY, LIMITED, (PLAINTIFFS), v. JAMES SCOTT AND ANOTHER, (DEFENDANTS).*

Practice—Agreement adjusting a suit—Subsequent disagreement of the parties—Application by one of the parties to record the agreement—Civil Procedure Code (XIV of 1882), Sec. 375.

Under section 375† of the Civil Procedure Code (XIV of 1882) an application to record an agreement adjusting a suit may be made, although, at the time of such application, one of the parties either denies that it was made, or wishes to withdraw from it, or otherwise objects to its enforcement. The Court, being already seized of the suit which is adjusted, the application to record the alleged agreement is a proceeding in that suit, and the Court, in connection with that proceeding necessarily has all the powers and has thrown upon it all the duties which appertain to it in regard to any other questions arising in any suit upon its file.

Ruttonsey Lalji v. Pooribai (I. L. R., 7 Bom., 304) approved and followed.

Hara Sundari Debi v. Kumar Dukhinessur (I. L. R., 11 Calc., 250) dissented from.

* Suit No. 107 of 1887.

† Section 375.—If a suit be adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the whole or any part of the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final, so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction.