

In order that the various questions above indicated may be duly investigated, we reverse the decree of the District Judge and remand the case for a further investigation with reference to the above remarks, with power to take such fresh evidence as may be necessary and legally admissible. Costs throughout should be disposed of on the further trial in such manner as may be just.

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Decree reversed and case remanded.

APPELLATE CRIMINAL.

Before Mr. Justice Jardine and Mr. Justice Telang.

QUEEN-EMPRESS *v.* BHIMA.*

Evidence Act (I of 1872), Secs. 25 and 26—Confession—Confession made to a police pátel, admissibility of—Evidence—Police officer.

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A police pátel is a police officer within the meaning of sections 25 and 26 of the Indian Evidence Act (I of 1872). A confession made to a police pátel is inadmissible in evidence.

APPEAL against the conviction and sentences passed by Ráo Sáheb Venkatráo R. Inámdár, Joint Sessions Judge of Bijápur, in the case of *Queen-Empress v. Bhima bin Hanmapa*.

The accused was charged under section 457 of the Indian Penal Code with house-breaking by night with intent to commit rape, and under section 354 with assaulting the complainant with intent to outrage her modesty.

At the trial the prosecution tendered in evidence a confession made by the accused to the police pátel in the presence of the *panch*.

The Sessions Judge admitted this confession on the ground that the police pátel was not a police officer within the meaning of sections 25 and 26 of the Indian Evidence Act.

On this confession as well as on other evidence in the case the accused was convicted under sections 457 and 354 of the Indian Penal Code respectively, and sentenced to rigorous imprisonment for one year for the first offence, and for six months for the second.

* Criminal Appeal, No. 130 of 1892.

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Against this conviction and sentences the accused appealed to the High Court.

There was no appearance for the Crown or for the accused.

JARDINE, J.:—The Joint Sessions Judge admitted evidence of a confession made by the prisoner to a police pátel, holding that a police pátel is not a police officer within the meaning of sections 25 and 26 of the Indian Evidence Act. He thought this novel view of the law is supported by the cases of *Queen-Empress v. Sama Pápi* (1) and *The Empress v. Rámanjijya* (2) on village Munsifs in the Presidency of Madras. But these cases are decided on the view that those Munsifs are Magistrates and not police officers, which cannot be said of police pátels in this Presidency. *Vide* the Bombay Village Police Act, 1867. We follow *Queen v. Hurribole Chunder Ghose* (3), in which it was held that the term "police officer" in these sections should be read not in any strict technical sense, but according to its more comprehensive and popular meaning, and we are of opinion that the evidence of the confession was inadmissible. But as the conviction can be sustained on the remaining evidence, we dismiss the appeal.

Appeal dismissed.

(1) I. L. R., 7 Mad., 287.

(2) I. L. R., 2 Mad., 5.

(3) I. L. R., 1 Calc., 207.

APPELLATE CIVIL.

Before Mr. Justice Bayley, Chief Justice (Acting), and Mr. Justice Candy.

BHA'SKAR PURSHOTAM AND OTHERS (ORIGINAL PLAINTIFFS), APPELLANTS, v. SARASVATIBA'I (ORIGINAL DEFENDANT), RESPONDENT.*

Hindu law—Verbal gift of immoveable property—Death of the donor—Possession given to the donee by the son of the donor.

One Ganesh Vithal, being possessed of certain lands which were his self-acquired property, died in 1878. On his death-bed he told his son, Purshotam Ganesh, (the plaintiff's father), to give these lands to his (Ganesh Vithal's) daughter, the defendant. In the following year (1879) Purshotam by a registered deed of gift gave the lands to the defendant. The deed contained the following recital:—"Our vadir (father) Ganesh Vithal has made a gift to you of his self-acquired lands Nos. 101 and 102 of Mauze Vadgaon for your own and your

* Second Appeal, No. 337 of 1891.

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August 11.