

can be held applicable to the present case. I must, therefore, hold that Motibai is entitled to be paid out of the immoveable property comprised in the deed of charge the sum of Rs. 70 per month during her life, and is also entitled to her distributive share in the estates of the deceased. Costs of all the parties as between attorney and client should, I think, come out of the estate, and I certify for counsel.

Attorneys for plaintiffs and defendants Nos. 1 and 4 :—Messrs. *Jehangir and Seervai*.

Attorneys for defendants Nos. 2 and 3 :—Mr. *K. B. Mehta*.

CRIMINAL REVISION.

Before Mr. Justice Parsons and Mr. Justice Ranade.

*IN RE RATTANSEE PURSHOTTUM.**

Muscat—Court of Her Majesty's Consul at Muscat—High Court's criminal revisional jurisdiction over the Consular Court—Order in Council dated 4th November, 1867—Criminal Procedure Code (Act V of 1898), Sec. 435—Jurisdiction.

The High Court at Bombay has no criminal revisional jurisdiction over the proceedings of Her Majesty's Consul within the dominions of the Sultan of Muscat.

THIS was an application under section 435 of the Criminal Procedure Code (Act V of 1898).

The accused was convicted by C. G. F. Fagan, Her Majesty's Consul at Muscat, of an offence under section 176 of the Indian Penal Code, and sentenced to seven days' imprisonment and a fine of Rs. 200.

Against this conviction and sentence the accused moved the High Court under its criminal revisional jurisdiction.

The accused contended that the High Court had jurisdiction to revise the proceedings of Her Majesty's Consul at Muscat under the Order in Council dated 4th November, 1867.

P. M. Mehta (with *A. R. Bakhle*), for accused, referred to sections 14, 15 and 23 of the Muscat Order in Council, dated 4th

* Criminal Revision, No. 191 of 1899.

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November, 1867⁽¹⁾, and section 15 of the Letters Patent, and argued that under section 14 the High Court of Bombay was a Court of reference in criminal matters, and under sections 15 and 23 the High Court had original criminal jurisdiction, and consequently by virtue of section 15 of the Letters Patent (the Charter Act) the Consular Court at Muscat was subject to the supervision of the Bombay High Court.

Scott (with Acting Advocate General) for the Crown.

PARSONS, J.:—We are clearly of opinion that we have no criminal revisional jurisdiction over the proceedings of Her Majesty's Consul within the dominions of the Sultan of Muscat. The Order of Her Majesty in Council, dated 4th November, 1867, gives this Court no appellate jurisdiction over his Court, and, therefore, section 15 of the Act establishing High Courts has no application.

We must dismiss the applicatio .

Application dismissed.

(1) Sections 14 and 23 of the Muscat Order in Council, dated 4th November, 1867:—

"14 And it is further ordered that if the crime or offence whereof any person being a British subject may be accused before Her Majesty's Consul as aforesaid shall appear to such Consul to be of such a nature as, if proved, would not be adequately punished by the infliction of such punishment as aforesaid, it shall be lawful for such Consul to summon not less than two, or not more than four, disinterested British subjects of good repute to sit with him as Assessors for inquiring into, trying and determining the charges against such person; and the Consul when he shall try any such charge with the assistance of Assessors as aforesaid shall, if he is himself convinced of the guilt of the party accused, have power to award any amount of punishment not exceeding imprisonment for twelve calendar months, or a fine of 1,000 dollars; and the Assessors aforesaid shall have no authority to decide on the innocence or guilt of the party accused, or on the amount of punishment to be awarded to him on conviction, but in the event of the said Assessors, or any of them, dissenting from the conviction of, or from the amount of punishment awarded to, the accused party, the Assessors or Assessor so dissenting shall be authorised to record in the minutes of the proceedings the grounds on which they and he may so dissent, and the Consul shall forthwith report to the High Court of Bombay the fact of such dissent, and of its having been so recorded in the minutes of the proceedings, and shall, as soon as possible, lay before the said Court copies of the whole of the depositions and proceedings with the dissent of the Assessor or Assessors recorded therein; and it shall be lawful thereupon for the Court, by warrant under seal addressed to the Consul, to confirm or vary, or remit altogether, as to the Court may seem fit, the sentence and punishment awarded to the party accused, and such Consul shall give