1909.

EMPEROR v. ARJUN.

with a direction that the sentence should take effect on the expiry of the term of imprisonment ordered in the former case.

The District Magistrate of Thána, being of opinion that the direction was not permissible in law, referred the case to the High Court, observing :—

"In view of the decision of their Lordships delivered in *Emperor* v. *Muthukomaran* (I. L. R. 27 Madras 525), both the sentences ought to run concurrently."

The reference was considered by their Lordships.

PER CURIAM :—We must accept the District Magistrate's view in this Reference which is in accordance with the ruling of this Court in *Queen-Empress* v. *Tulshya Bahiru*[1], with *Emperor* v. *Muthukomaran*[2] and *Joghi Kannigan* v. *Emperor*[3].

We must, therefore, make the sentences concurrent in the present case.

R. R.

(1) (1893) Unrep. Cr. C. 970. (2) (1903) 27 Mad. 525.
(3) (1908) 31 Mad. 515.

APPELLATE CRIMINAL.

Before Sir Basil Scott, Kt., Chief Justice, and Mr. Justice Batchelor.

IN RE DHONDO KASHINATH PHADKE.*

1909.
December 22.

Newspaper (Incitements to Offences) Act (VII of 1908), section 3—Order—Forfeiture of press.

Section 3 of the Newspaper (Incitements to Offences) Act, 1908, provides for the making of a conditional order declaring the printing press used for the purpose of printing or publishing the offending newspaper to be forfeited. The section refers to the whole of the press : and no order could be made under it limited only to such portions of the press as were employed in printing the offending newspaper.

APPEAL from an order passed by J. L. Rieu, District Magistrate of Thána.

* Criminal Appeal No. 405 of 1909.

1909.

In re Dhondo Kashinath.

Dhondo was the owner of a printing press called the Arunodaya Press at Thána.

A weekly newspaper called the "Hindu Panch" was printed at the aforesaid press. Some of the issues of the newspaper contained articles which fell within the purview of the Newspaper (Incitements to Offences) Act, 1908.

Under section 3 of the Newspaper (Incitements to Offences) Act, 1908, the District Magistrate of Thána, on the 6th October 1909, passed a conditional order for the forfeiture of the whole of the Arunodaya Press; and he made the order absolute on the 18th idem.

In making the order absolute the Magistrate remarked as follows:—

"The respondent Dhondo Kashinath Phadke has presented an application in which he states that only one machine and two frames of type are used or can be used for printing the 'Hindu Panch' and prays that the order may be made in respect of these particular portions of his printing press only. I do not see how it is practicable to discriminate between particular portions of a press. It may be that the other portions of the press could not be used for printing the paper without introducing certain modifications in its size and appearance, but this would not be a bar to its production by the press which is the object of this preventive measure. I cannot therefore entertain the application. The order of forfeiture will extend to the whole of the printing plant and materials of the 'Arunodaya Press' by which the 'Hindu Panch' has been declared by its publisher under the Press and Registration of Books Act, 1867, to be printed and to all copies of that newspaper, wherever found."

The applicant applied to the High Court contending, *inter alia*, that the Magistrate erred in making the order applicable to the whole printing plant and materials of the Arunodaya Press, but ought to have ordered the forfeiture of the printing press used for the purpose of printing or publishing the said papers only.

D. A. Tulzapurkar, for the applicant.

M. B. Chaubal, Government Pleader, for the Crown.

Per Curiam:—This is an application by the petitioner Dhondo Kashinath Phadke by way of appeal against the order of the District Magistrate of Thána forfeiting the Arunodaya Press.

The argument advanced before us is that the Magistrate should have limited his order to the forfeiture of such portions of the

1909.

IN RE DHONDO KASHINATH.

Arunodaya Press as were used for the printintg of the "Hindu Panch" and should not have passed an order of forfeiture of the whole press.

It is to be observed, however, that section 3 of the Newspaper (Incitements to Offences) Act, VII of 1908, provides for the making of a conditional order declaring the printing press used for the purpose of printing or publishing such a newspaper to be forfeited, and clause (c) of section 2 defines printing press to include all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing.

As the paper was printed at the Arunodaya Press, the Magistrate was right in forfeiting the whole press as defined by the Act.

We, therefore, dismiss the appeal.

Appeal dismissed.

R. R.

APPELLATE CIVIL.

Before Sir Basil Scott, Kt., Chief Justice, and Mr. Justice Batchelor.

1909. *December* 8.

TRIMBAK RAMCHANDRA PANDIT AND OTHERS (ORIGINAL DEFENDANTS), APPELLANTS, *v.* SHEKH GULAM ZILANI WAIKER (ORIGINAL PLAINTIFF), RESPONDENT.*

Saranjam—Inam—Miras (permanent tenancy)—Denial of Saranjamdar's title—Attornment to successive Saranjamdars—Estoppel—Claim to hold as Mirasi tenant—Limited interest—Adverse possession.

In an ejectment suit brought by an Inamdar against persons claiming to hold as Mirasi or permanent tenants, it was conceded that the Inam rights in the land in suit appertained to a Saranjam held on political tenure and that the present incumbent of the Saranjam was the plaintiff. The defendants resisted the plaintiff's claim to eject them on the ground that the Inam rights were merely the right to receive the royal share of the revenue and that the proprietary rights in the soil were, prior to the date of the grant, vested in the grantee of the Inam, had descended to his heirs independently of the Inam and furnished the leasehold or Mirasi right.

* Second Appeal No. 537 of 1907.