

Therefore this application by the defendant to the Court to alter the terms of the consent decree should not have been acceded to. At the most the Court could have allowed the defendant to pay the decretal amount although the decretal period had expired. The decree of the lower appellate Court must be set aside and the plaintiff's claim allowed as prayed. The appellant will get his costs throughout from the respondent.

*Decree reversed*

J. G. R.

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### CRIMINAL REVISION.

*Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Shah.*

*In re* HOLIBASAPPA PAREPPA SANGOLI\*.

*Practice and Procedure—Magistrate—Judgment—Remarks against a person who is neither party nor witness.*

It is very undesirable that a Judge or Magistrate should make remarks which are prejudicial to the character of a person who is neither a party nor a witness in the proceeding before him, and who has therefore no opportunity of giving an explanation or defending himself against the remarks made by the Court.

THIS was an application to have certain remarks expunged from the judgment passed by D. B. Nesarikar, Sub-Divisional Magistrate, First Class, at Belgaum.

One Mahadevappa filed a complaint against his mistress charging her with theft of ornaments.

The trying Magistrate acquitted her of the offence; but in doing so, passed, in his judgment, severe strictures against the applicant, who was neither a party to nor a witness in the proceeding.

The applicant, thereupon, applied to have the unfavourable remarks expunged from the judgment.

*Jayalkar, with G. P. Murdeshwar, for the applicant.*

\* Criminal Application No. 373 of 1920.

1921.

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MADHAV  
BALKRISHNA  
v.  
APPAL  
VENKATESH.

1920.

December 1.

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1920.

HOLL-  
BASAPPA,  
*In re.*

MACLEOD, C. J. :—In certain proceedings before Mr. Nesarikar, Sub-Divisional Magistrate, Belgaum, in the case of *Imperator v. Gurpadawa* certain remarks were made by the Magistrate prejudicial to the petitioner who was not a party to the proceeding nor a witness in the case. The petitioner has asked us to express an opinion with regard to those remarks. We confine ourselves to saying that it is very undesirable that a Judge or a Magistrate should make remarks which are prejudicial to the character of a person who is neither a party nor a witness in the proceeding before him, and who has, therefore, no opportunity of giving an explanation or defending himself against the remarks made by the Court. That is a principle which has more than once been laid down by the Courts.

R. R.

## APPELLATE CIVIL.

*Before Sir Norman Macleod, Kt., Chief Justice, and Mr. Justice Shah.*

1920.

December 2.

CHHAGANLAL KALIDAS (ORIGINAL JUDGMENT-DEBTOR), APPELLANT *v.* FARASRAM KURNASHANKAR, MINOR, BY HIS GUARDIAN OF PROPERTY, BAI GAVRI, WIDOW OF KURNASHANKAR ADITRAM AND ANOTHER (ORIGINAL DECREE-HOLDER), RESPONDENTS<sup>62</sup>.

*Dekkhān Agriculturists Relief Act (XVII of 1879), section 71†—Civil Procedure Code (Act V of 1908), Order XXI, Rule 2, Order XXXII, Rule 7—Decree in favour of minor—Compromise of the decree with minor's mother—Compromise neither certified to nor sanctioned by the Court—Payment made under compromise to be taken into account under the decree.*

<sup>62</sup> Second Appeal No. 77 of 1920.

† The section runs as follows :—

71. The last clause of section 258 of the Code of Civil Procedure shall not apply to payments out of Court made in any proceeding under this Act, in any case where an acknowledgment by the judgment-creditor for the same is produced, or when the payment is either admitted by him or proved.