

1900
MARCH 11.
ORIGINAL
CIVIL.

23 C. 250.

28 C. 250.

[250] ORIGINAL CIVIL.

Before Mr. Justice Stanley.

J. C. STALKARTT v. W. STALKARTT. [11th March, 1900.]

Receiver—Practice—Application for appointment of Receiver, whether to be made in Chambers or Court.

An application for the appointment of a Receiver on the retirement of another Receiver should be made in Court and not in Chambers.

THIS was an application made before the Judge sitting in Chambers by Mr. *Edwards*, of Messrs. Orr, Robertson and Burton, Solicitors, on behalf of the defendant for the appointment of a Receiver in the place of retiring Receiver, Mr. Girard, and for such other orders as might be necessary. The application was consented to by Mr. Remfry of Messrs. Remfry & Sons on behalf of the plaintiff.

STANLEY, J.—This is not a Chambers application.

Mr. *Edwards*.—An application, which is not an original application, but is only an application to supply the place of a retiring Receiver, may be made in Chambers. The application is moreover consented to. *Belchambers' Practice*, p. 99, citing *Grote v. Bing* (1), *Blackborough v. Ravenhill* (2).

STANLEY, J.—An application for the appointment of a Receiver in place of the retiring Receiver is not an application which should be made before the Judge sitting in Chambers, but should be in Court. I accordingly direct that this application be renewed in Court.

The application was subsequently made by Counsel in Court and granted.

Attorneys for the Defendant : Messrs. *Orr, Robertson and Burton*.

Attorneys for the Plaintiff : Messrs. *Remfry & Sons*.

23 C. 251.

[251] CRIMINAL REFERENCE.

Before Mr. Justice Prinsep and Mr. Justice Handley.

PARSI HAJRA (*Complainant*) v. BANDHI DHANUK AND OTHERS
(*Accused.*)* [17th August, 1900.]

Code of Criminal Procedure (Act V of 1898), s. 250—Compensation—False case—Imprisonment in default of payment of compensation—Summary proceeding—Conviction of offence under Penal Code (Act XLV of 1860), s. 211.

It is only if the compensation ordered to be paid under s. 250, proviso (2) of the Code of Criminal Procedure, cannot be recovered that imprisonment can be awarded; therefore an order of imprisonment passed before any attempt is made towards recovery of the sum ordered to be paid as compensation is bad.

S. 250 of that Code does not contemplate that compensation shall be awarded because a case is found to be false, but where the Magistrate is satisfied that the accusation is frivolous and vexatious.

The words "frivolous and vexatious" in that section indicate an accusation merely for the purpose of annoyance, not an accusation of an offence which is absolutely false.

The conviction by a Magistrate of a person of an offence under s. 211 of the Penal Code in a summary proceeding is improper.

* Criminal Reference, No. 160 of 1900, made by W. H. H. Vincent, Esq., Officiating Sessions Judge of Bhagalpore, dated the 7th August 1900.

(1) 9 Hare, 50.

(2) 16 Jur. 1085.