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who has given a recognizance bond, to pay the penalty without previous *prima facie* proof that it has been forfeited.

What affords the strongest inference, however, is Section 491, which relates to calling upon persons to give recognizances, Explanation I. requires a credible report or other information, and it is enacted that one Magistrate cannot bind over a person until he has adjudicated on the evidence. The expression used in Section 502 is very much stronger. It is "whenever it is proved" and therefore proof, at least *prima facie*, that a bond has been forfeited, is necessary before he who was bound by it can be called on to pay the penalty or show cause against his doing so. It is but reasonable and consistent that the Legislature should have required a more careful and deliberate procedure in this stage than in the earlier one provided for by Section 491. There must, we think, in the first instance, be proof in the ordinary legal sense, that is, evidence on oath, to ground the Magistrate's further procedure under Section 502. We must, therefore, annul the proceedings and order the fine to be refunded.

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[APPELLATE CRIMINAL JURISDICTION.]

REG. v. BÁPU YÁDAV and RÁMA TULSIRÁM.

Coin—Money—Indian Penal Code, Secs. 230 and 231.

The test of whether a coin is money or not, is the possibility of taking it into the market and obtaining goods of any kind in exchange for it For this its value must be ascertained and notorious: *Held*, therefore, that to counterfeit a coin of the Emperor Akabar's time was not an offence under Sections 230 and 231 of the Indian Penal Code

THIS was an appeal from a conviction for counterfeiting coin by A. Bosanquet, Session Judge of Ahmednagar, and a sentence of seven years' rigorous imprisonment.

The Judge held it proved that one of the accused persons made certain coins, bearing on one side the superscription "Jaláluddin Akabar Badsháh Gázi San 988"; and on the other the celebrated formula of the Mahomedan faith, viz:—

"There is no other God but the one God, and Mahomed is the Prophet of God." He also held it proved that the second accused was present when these coins were made.

The Judge, in his finding, then went on to say:—"The Mahomedan School-master Sharif Ali Beg says that he has seen a great many genuine coins similary suprescribed. The Shroff Multánchand says that he would buy cos linske these, if genuine, and would give one or to annas more than a Queen's rupee, or even more, for each of them. He, therefore, considers the stamp on them to imply that they contain a certain amount of silver, and are of a certain value. This is all that is required by a coin, for it is to be used as an instrument of commerce. Whether small shop-keepers in the *Bazar* would take such coins or not is not quite material. It is enough for the purposes of this case, that money dealers would treat them as money."

The appeal was heard by WEST and NÁNÁBHÁI HARIDÁS JJ.

Shantaram Narayan for the appellant:—The coins which the accused are convicted of counterfeiting were not money; and they were intended to be used only as ornaments. No offence is therefore committed.

Dhirajlal Mathuradas, Government Pleader, for the Crown.

PER CURIAM:—A coin is metal used for the time being as money. Money is a general standard of value and medium of exchange. The test of whether a particular piece of metal is money or not supposing it genuine), is the possibility of taking it into the market and obtaining goods of any kind in exchange for it. For this its value must be ascertained and notorious; that it is known to persons of special skill or information is not sufficient. In the present case it was necessary to call an expert to say what the coin was of which the takens in the prisoners' possession were imitations. This was in itself a proof that it could not be money, the knowledge of which must be generally diffused in order that it may discharge its necessary functions. A

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second witness was called, who deposed that he would purchase coins of the kind imitated at a particular price. This was itself a denial that they were money. The witness referred them to quite another standard as the measure of their value, and described what he would do as "buying," which is applied not to money passing as money, but to things taken in exchange for money. The test of common usage or notoriety, which, according to I Russell on Crimes 95, determines whether old coins are the Queen's coins, is still more applicable to the determination of whether they are current coins, or, as the Indian Penal Code says, "used for the time being as money."

It is clear that the tokens imitated in this case were not money, and therefore not coins within the meaning of Section 230 of the Indian Penal Code, and the conviction and sentence must be reversed.

Conviction and sentence reversed.

Sept. 10

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[APPELLATE CIVIL JURISDICTION.]

Special Appeal No. 11 *of* 1874.

RANGO VITHAL and another. *Defendants and Appellants.*
RIKHIVADA'S BIN RA'YACHAND. *Plaintiff and Respondent.*

Limitation—Civil Procedure Code, Sec 269*–Summary order–Possession.*

The words "suit to establish his right" in Section 269 of the Civil Procedure Code mean a suit to establish his right to *present* possession; but where there is a subsisting right which is contradicted by the summary order under that section, and which is to be properly asserted by such a suit, the suit, by the person dispossessed or refused possession, to establish his right, must be brought within one year from the date of the order, failing which he cannot sue afterwards on any portion of such right. It is otherwise, where his right is consistent with the order and the possession given under it.

THIS was a special appeal from the decision of E. Cordeaux, Assistant Judge of Puná, confirming the decree of the Subordinate Judge of Talegám.