

Besides these two items, there should be a decree in favor of the plaintiff for the admitted jamma, with interest at the rate of twelve per cent. per annum from the beginning of the year 1282 B. S. to the date of the institution of this suit, and from the date of the institution of this suit to this date at the rate of six per cent. per annum. The whole amount thus decreed to bear interest at six per cent. per annum from this date. The plaintiff must pay to the defendants the costs of this suit in all the Courts with interest at the aforesaid rates.

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MOHUN ROY
v.
ICHAMOYEE
DASSEA.

Appeal dismissed.

APPELLATE CRIMINAL.

Before Mr. Justice Ainslie and Mr. Justice Broughton.

THE EMPRESS v. SASHI BHUSAN CHUCKRABUTTY.

1878

Dec. 17.

IN THE MATTER OF THE PETITION OF SASHI BHUSAN CHUCKRABUTTY.*

Criminal Procedure Code (Act X of 1872), s. 90—Omission to give information to Police of Offence.

The provisions of s. 90 of the Criminal Procedure Code should not be put in force against one who has omitted to give information to the Police of an offence having been committed in cases where the Police have actually obtained such information from other sources.

THE accused, one of the gomashtas of Mouza Moshoomda, was convicted under s. 176 of the Penal Code of omitting to give information of a theft of paddy belonging to Abir Sheikh, which, under s. 90 of the Criminal Procedure Code, he was as one of the gomashtas of the village bound to do. On the evidence it appeared that information of the alleged offence had been furnished, within a short time after the occurrence, to the Deputy Magistrate by two other persons, one of whom was another of the gomashtas of the village.

* Criminal Motion, No. 213 of 1878, against an order passed by Baboo Chundra Sekhar Banerjee, Deputy Magistrate of Ranaghat (in the District Nuddea), dated the 21st November 1878.

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 EMPRESS
 v.
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 CHUCKRA-
 BUTTY.

On conviction by the Deputy Magistrate the prisoner petitioned the High Court under s. 297 of the Criminal Procedure Code.

Baboo *Kishory Mohun Roy* for the petitioner.

No one appeared for the Crown.

The judgment of the Court was delivered by

AINSLIE, J. (BROUGHTON, J., concurring).—The provisions of s. 90 of the Criminal Procedure Code and s. 176 of the Indian Penal Code ought not to be used for purposes of vexation, but in order to secure due information to Magistrates and the Police of offences committed within their jurisdiction: Provided that information is conveyed to the nearest Magistrate or Police officer by one of the parties bound to give such information; it is not reasonable that every other person who may possibly be bound to give information should be prosecuted for not having done so. A Police officer is not better off when he has half-a-dozen copies of the same report than when he has the first. In the present instance it appears as a matter of fact, from the record which has come up to us, that the petitioner did not himself get any information regarding the theft until the fourth day after its occurrence, and that, in the meantime, an account of the theft had been duly reported to the Police by another gomashtha and a punch of the village. Under these circumstances, there was nothing to be gained by further information being given. All that the law intended to secure, namely, that these matters should not be concealed, had been secured. And in our opinion the present prosecution was unreasonable.

The Deputy Magistrate has passed a sentence, which s. 176 of the Penal Code does not admit of being passed. We, therefore, set aside the sentence passed, and we think that, under the circumstances of the case, it is not necessary to substitute any other for it. The accused will be discharged.

Conviction set aside.