

## CRIMINAL REVISION.

*Before Mr. Justice Prinsep and Mr. Justice Stephen.*

ISHAN CHUNDER DASS

v.

GARTH AND ANOTHER.\*

1902  
Feb. 2.

*Jurisdiction—Report by police officer of one district—Proceedings instituted by Magistrate of another district—Code of Criminal Procedure (Act V of 1898) s. 145.*

The Magistrate of one district has jurisdiction to institute proceedings under s. 145 of the Code of Criminal Procedure on a report drawn up by a police officer of another district in respect of such portions of the land or water mentioned in the report as lies within his jurisdiction.

In this case proceedings under s. 145 of the Code of Criminal Procedure were about to be instituted by the Magistrate of Faridpore on a report of a police officer of that district. The second party, however, applied to the Magistrate to have the report forwarded to the District Magistrate of Dacca for disposal on the ground that the greater portion of the water in dispute lay in the subdivision of Manickgunge within the district of Dacca and a small portion only in the district of Faridpore, and also that it would be more convenient for the parties and their witnesses.

The application was granted and the report was forwarded to the District Magistrate of Dacca for disposal, who forwarded it to the Subdivisional Magistrate of Manickgunge. On the application of the second and third parties, the District Magistrate sent for the proceedings from the Court at Manickgunge. The first party then objected to the transfer and applied that the proceedings should be in Faridpore and not in Dacca. On the 14th August 1901 the District Magistrate passed the following order:—

“The Courts of this district can pass orders about so much of it as falls within this district. There is therefore no need to send the case out of the district to suit the petitioner, and also, as it will cause no inconvenience to the first party, I will transfer this case to the file of Babu K. C. Sen.”

The petitioner applied to the High Court and obtained a Rule calling upon the District Magistrate to show cause, why the proceedings should not be set aside on the grounds *inter alia* that

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the proceedings under s. 145 of the Code of Criminal Procedure taken by the Subdivisional Magistrate of Manickgunge were without jurisdiction because they were based upon the report of a police officer of the district of Faridpore in respect of land or water within the jurisdiction of that district and not within the jurisdiction of the Magistracy of Dacca.

*Mr. Swinhoe and Babu Atulya Charan Bose* for the petitioner.

*Mr. P. L. Roy and Babu Surendra Nath Guha* for the opposite party.

**PRINSEP AND STEPHEN JJ.** The Rule for our consideration was granted on three grounds, first, on the objection that the proceedings under s. 145 of the Code of Criminal Procedure taken by the Subdivisional Magistrate of Manickgunge were without jurisdiction, because they were based upon the report of a police officer of the district of Faridpore in respect of land or water within the jurisdiction of that district and not within the jurisdiction of the Magistracy of Dacca; second, that the order transferring the proceedings from the Subdivisional Court of Manickgunge to Dacca was bad, inasmuch as it has been made without notice to the petitioner; and lastly, it was proposed to consider whether the proceedings should be taken in Manickgunge or in Faridpore as being to the convenience of the parties concerned.

In regard to the first objection, we find that the report of the police officer of Faridpore was to the effect that a breach of the peace was likely to take place in consequence of a dispute concerning a piece of water lying partly in the subdivision of Manickgunge within the district of Dacca and partly in Faridpore. This report came before the Magistrate of Manickgunge, who thereupon took proceedings under s. 145 in respect of the water lying within his jurisdiction. There can be no valid objection to such a proceeding by reason of want of jurisdiction.

On the second point, we find that the District Magistrate of Dacca on the application of the other party sent for these proceedings from the Subdivisional Court of Manickgunge and

finally, on the 14th August, in spite of the objection of the petitioner, he transferred the case for disposal by a Subordinate Magistrate holding his Court at Dacca. We think that sufficient notice was thus given to the petitioner.

On the last point we are not satisfied that there is any valid ground for holding that these proceedings should be held elsewhere than at the Court of the Subordinate Magistrate of Dacca.

The Rule is therefore discharged.

D. S.

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## CIVIL RULE.

*Before Mr. Justice Prinsep and Mr. Justice Stephen.*

GURU CHARAN SHAHA

v.

GIRIJA SUNDARI DASSI.\*

1902

Nov. 13.

*Sanction to prosecute—Criminal Procedure Code (Act V of 1898) s. 195, subsection (3)—Evidence—Tendering in evidence document alleged to be forged, but not judicially considered, sanction to prosecute for.*

An application under s. 195 of the Criminal Procedure Code for sanction to prosecute for tendering in evidence a document alleged to be forged should not be refused on the ground that the document was only tendered in evidence and not judicially considered.

But, where there are no *prima facie* good grounds for instituting criminal proceedings, such sanction should not be granted.

THE petitioner, Guru Charan Shaha, brought a suit in the Court of the Munsiff of Brahmanbaria, in Tipperah, against Girija Sundari Dassi and others for the recovery of Rs. 50 alleged to have been taken as a loan from the petitioner.

The defendants contested the suit and denied the debt altogether, and further alleged that it was the plaintiff, the present petitioner, who was indebted to the defendants, and in support of this allegation filed certain bonds purporting to have been executed by the petitioner.

\* Application for a Rule. Order No. 3117 of 1902.