

1886

 IN THE
 MATTER
 OF THE COR-
 PORATION
 OF THE
 TOWN OF
 CALCUTTA
 v.
 MATOO
 BEWAH.

“every person keeping such house, &c., without such license as aforesaid, shall forfeit the sum of £100 to such person as will sue for the same.” Two actions were brought under the Act by common informers, each to recover a penalty of £100. A verdict was taken in the first, and in the second, Wills, J., held that the penal powers of the Act were exhausted by the recovery of one penalty: the full Court concurred in this view, Bovill, C.J., saying that, if the Legislature had intended that there should be more than one penalty, that intention would no doubt have been expressed in clear and unequivocal terms. That case was referred to in *Milnes v. Bale* (1), where the distinction is pointed out between cases where a penalty is imposed in respect of a complex and continuous act, and those where it is imposed in respect of a simple uncomplicated offence which is complete.

In this case, the keeping of animals without a license is, as in the case of *Garrett v. Messenger*, the keeping a house of entertainment without a license was, a comprehensive offence to be proved by many acts, all of which constitute only one offence for which only one penalty is recoverable—that penalty being a fine not exceeding Rs. 100, and such further fine as may be imposed; those of the acts done which are committed after summons and before conviction must be treated as part of it.

We therefore answer both questions submitted to us by the Magistrate in the negative.

J. V. W.

CRIMINAL REVISION.

Before Mr. Justice Norris and Mr. Justice Macpherson.

1886
 May 20.

IN THE MATTER OF THE PETITION OF RAM DAS MAGHI AND ANOTHER.*

Judgment—Form and contents of judgment—Criminal appeal to Magistrate—Criminal Procedure Code, 1882, ss. 367, 424.

A Magistrate, after hearing an appeal from the Deputy Magistrate, gave the following judgment: “I see no reason to distrust the finding of the lower

* Criminal Revision No. 192 of 1886, against the order passed by A. Boruah, Esq., Magistrate of Bogra, dated the 24th of March 1886, modifying the order passed by A. C. Chatterji, Esq., Deputy Magistrate of Bogra, dated the 19th of March 1886.

(1) L. R., 10 C. P., 595 and 597.

Court. The sentence passed however appears harsh. I reduce the term of imprisonment to fifteen days. The fines and terms of imprisonment in default will stand." *Held*, following the decision in *Kamruddin Dai v. Sonaton Mandal* (1) that it was not a judgment within the meaning of ss. 367 and 424 of the Criminal Procedure Code.

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THIS case merely followed the decision in *Kamruddin Dai v. Sonaton Mandal* (1), holding on the authority of that case that the judgment given by the Magistrate was not a judgment in accordance with ss. 367 and 424 of the Code. The Court ordered the judgment to be set aside and directed that the appeal should be reheard.

Baboo *Isvar Chandra Chakrabati* for petitioners.

Baboo *Durga Mohun Das* for opposite party.

J. V. W.

APPELLATE CIVIL.

Before Mr. Justice McDonell and Mr. Justice Beverley.

O. STEEL & CO. (DECREE-HOLDERS) *v.* ICHCHAMOYI CHOWDHRAIN AND
ANOTHER, (JUDGMENT-DEBTORS.)*

1886
March 18.

*Appeal—Order staying execution of Decree—Civil Procedure Code, 1882,
ss. 2, 243, 244—Decree.*

An order under s. 243 of the Civil Procedure Code staying execution of a decree determines a question relating to the execution of the decree within the meaning of s. 244, and is therefore a decree within the meaning of s. 2; an appeal therefore lies from such order.

IN proceedings in execution of a decree the judgment-debtors applied for stay of execution on giving security, on the ground that they had, in the same Court in which the execution proceedings were being carried on, brought a suit against the decree-holders for possession and mesne profits of the land in connection with the suit in which the decree under execution had been obtained. The Subordinate Judge made an order on the application that the execution proceedings should be stayed, but as the day the

* Appeal from Order No. 384 of 1885, against the order of Baboo Ram Coomar Pal Chowdhuri, Subordinate Judge of Sylhet, dated the 3rd of September 1885.

(1) I L. R., 11 Calc., 449.