

damage sustained has been is a matter for computation according to the circumstances of each case; but as there has in such a case been an undoubted injury, the law will not refuse a remedy merely because its amount in money does not admit of precise estimation.

In the present case, the suit is brought only against an alleged intruder into the office of village priest. If the plaintiff establishes that the office exists, that he is sole or part holder of it, that there are emoluments attached to it, and that the defendant has, without right, acted in the office and received the emoluments or some of them, he is entitled to damages for the intrusion. We, therefore, reverse the decree of the Assistant Judge, and remand the cause for retrial, and a new decree on the merits. Costs to follow the final decision.

Decree reversed and suit remanded.

[APPELLATE CRIMINAL JURISDICTION.]

REG. v. JIBHÁ'I VAJA'.

Giving false evidence—Non-judicial Proceeding—Power to administer oath.

In a non-judicial proceeding, the object of which is to discover the writer of a scandalous petition, it is not competent for the Magistrate conducting the proceeding to administer an oath.

The High Court reversed a conviction for giving false evidence where an oath was administered under the above circumstances.

THIS case, in which the accused was convicted of giving intentionally false evidence in a non-judicial proceeding, was called for on an examination of the Magisterial Criminal Return of the District of Kaira for September 1873.

The facts of the case, in so far as they are material, are as follows:—

The accused Jibhá'i was alleged to have taken part in a petition to the District Magistrate of Kaira, Mr. Propert, in the matter of the nomination of a Mukhi Pátíl by Mr. Sheppard, the predecessor of Mr. Propert, in which petition remarks were made about Mr. Sheppard, which Mr. Propert

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considered scandalous. Jibháí was called up before Mr. Propert and was examined on solemn affirmation as to who the writer of the petition was, and whether it bore his signature. Mr. Propert, considering the evidence of Jibháí to be false, tried and convicted him of the offence of giving false evidence in a non-judicial proceeding. This conviction was set aside by the Sessions Judge on the ground of want of jurisdiction in Mr. Propert, in contempt of whose authority Jibháí's offence was alleged to have been committed. The case subsequently came on before Mr. Grant, who found him guilty of the offence of intentionally giving false evidence in a non-judicial proceeding, and sentenced him to one month's rigorous imprisonment, under Section 193 of the Indian Penal Code.

The review was made by MELVILL and NA'NA'BHA'Í HARIDA'S, JJ

PER CURIAM:—It appears that the object of the proceedings, in which the false evidence was given, was to discover and bring to punishment two persons who had made a scandalous petition against a former Magistrate, and that Jibháí, being one of those persons, was examined on solemn affirmation. The Court thinks that it was not competent to the Magistrate, under these circumstances, to administer an oath to Jibháí. And on this ground reverses the conviction and sentence.

Conviction and sentence reversed.