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the Court at first decides to hear it under s. 279. This was not done in this case. All that the Court did, was to refuse to hear the appeal. This view is supported by *Reg.* v. *Mehtarji* (1), which is a decision on the corresponding section of the old Code of Criminal Procedure.

JUDGMENT.

The judgment of the Court was delivered by

KEMBALL, J.—The only question is whether it is competent to us to review our order of the 31st July rejecting the appeal. Mr. Gill admits that if this order had been a final one we should be debarred, by the provisions of s. 285 of Code of Criminal Procedure, from entertaining this application. He contends that that section refers only to s. 280, and that an order of rejection made by an Appellate Court under s. 278 is not a judgment, sentence, or order within the meaning of s. 285, on the ground that an appeal has really not been heard until the Court has decided to hear it and call for the papers; and our attention has been drawn to a remark made by Justice Gibbs in *Reg.* v. *Mehtarji*, in the seventh volume of the Bombay High Court Reports, as an authority for showing the existence of a practice of hearing an appellant, albeit his petition had been rejected **[103]** after perusal. But whatever may have been the practice under the old Code—and it is to be observed that there is material difference between s. 417 of the old Code and the corresponding s. 278 of the present one, the Appellate Court being now required to fix a time within which the appellant or his counsel may appear before an appeal can be rejected—the uniform practice of recent years, so far as we know, has been to regard an order of rejection made under s. 278 as final, and, therefore, not open to review. It is clearly an order made by an Appellate Court in appeal, and it seems immaterial whether such order is made before or after the papers are called for. The Code makes no exception, and we can see no reason for making one.

Without, therefore, considering its merits we must reject the application.

Order accordingly.

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4 B. 103=4 Ind. Jur. 580.

APPELLATE CIVIL.

Before Mr. Justice M. Melvill and Mr. Justice Pinhey.

NILKANTH (*Plaintiff*) *v.* DATTATRAYA (*Defendant*).*

[15th September, 1879.]

Limitation Act (XV of 1877), s. 25—Month—Year—Native date.

Where a bond bears a native date only, and is made payable after a certain time, that time, whether denoted by the month or the year, is to be computed according to the Gregorian [British] calendar; s. 25 of Act XV of 1877.

THIS was a reference under s. 617 of the Civil Procedure Code (Act X of 1877) by the Subordinate Judge of Satara through the District Judge.

The Subordinate Judge stated the case as follows:—

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* Special Appeal No. 32 of 1874.

(1) 7 B.H.C.R. Cr. Ca. 67.

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"The plaintiff claims Rs. 27-14-0 as being due to him on a money bond dated the 2nd of *Kartik Vadya Shake* 1797 (15th November 1875).

[104] "The suit is governed by three years' limitation. The bond contains a native date only, and the claim has been filed on the 12th March 1879. Reckoning the period by the British calendar the suit is in time, but reckoning it by the native one, it is out of time * * *

"The wording of the illustrations to s. 25 of Act XV of 1878 makes me to doubt the otherwise plain construction of the section itself. As cases of this nature are frequently to be met with, I think it advisable, for the ends of justice and removal of any doubt on the subject, to refer this case, under s. 617 of Act X of 1877, as to whether limitation is to be invariably computed according to the Gregorian calendar, though an instrument contains a native date only."

4 B. 103 = 4 Ind. Jur. 580.

Ghanasham Nilkanth, for the plaintiff.

PER CURIAM.

Section 25 of Act XV of 1877 provides that "all instruments shall, for the purposes of the Act, be deemed to be made with reference to the Gregorian calendar." The meaning of this clearly is that the parties to an instrument shall be deemed to have used the terms 'year' and 'month' in the sense which they bear in the Gregorian calendar. Under this view the suit is not barred.

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4 B. 104 = 4 Ind. Jur. 630.

APPELLATE CIVIL.

Before Sir Michael Roberts Westropp, Kt., Chief Justice, and Mr. Justice Kemball.

ADVYAPA, SON OF CHINAPA (*Original Defendant*), *Appellant v.* RUDRAVA (*Original Plaintiff*), *Respondent.** [4th October, 1879.]

Hindu Law—Daughter's right of succession—Incontinence.

Under the Hindu law prevailing in this Presidency a daughter is not debarred by incontinence from succession to the estate of her father.

Smriti writers and commentators on Hindu law and judicial decisions on the question of a daughter's right of succession, referred to and discussed.

[**Appr.**, 31 B. 495 (510) = 9 Bom. L.R. 774 (787); 5 M. 149; **R.**, 23 B. 296 (301); 26 M. 509; 31 M. 100 = 18 M.L.J. 70 = 2 M.L.T. 533; 40 C. 650 = 17 C.L.J. 438 (457) = 17 C.W.N. 679 (693) = 19 Ind. Cas. 129; 4 N.L.R. 31; **D.**, 22 C. 347.]

THIS was a special appeal from the decision of C. H. Shaw, District Judge of Belgaum, reversing the decree of Ramchandra Rao, Subordinate Judge of Saundatti.

[105] The plaintiff Rudrava claiming title as heir of her mother Gorlingowa, who died on the 15th October 1867, brought this suit for the recovery of certain *jirait* lands. The suit was originally against Advyapa, Hanmantgavda and Teyowa, the plaintiff's sister. Five other persons were afterwards joined as defendants.

The defendant Advyapa, a male relative of the plaintiff's father, answered that the plaintiff had been a prostitute for twenty-five or thirty years, and, therefore, could not take as heir. He also alleged that the lands in dispute were undivided ancestral estate, and could not be claimed by the plaintiff. Hanmantgavda pleaded that he was a tenant of Advyapa

* Civil Reference No. 13 of 1879.