

Code. We have, consequently, no alternative but to reverse the decrees of the Courts below, and reject the claim, with costs. What the effect of the decree of the 14th January, 1881, may be, it is not for us to decide now ; but, supposing that the decree-holder is not able to get possession under it, it might be that he could get the decree amended so as to give him that power.

1883

BHAU
BALAJI
v.
HARI
NILKANTH-
RAY.

Decree reversed and claim rejected.

REVISIONAL CRIMINAL JURISDICTION.

Before Mr. Justice Kemball and Mr. Justice Pinhey.

EMPRESS v. BHAGVAN BHIIVSAN.*

1883

March 29.

Act XIII of 1859—Breach of contract by artificers, workmen and labourers—Service for agricultural and other purposes.

Act XIII of 1859 (to provide for the punishment of breaches of contract by artificers, workmen and labourers in certain cases (1), extended to all the collectorates of the Bombay Presidency by notification of the Government of Bombay dated 10th of May, 1860,) does not apply to a contract whereby a person, in consideration of receiving Rs. 45, bound himself to another to render service for "agricultural and other purposes" for the period of one year.

THIS was a reference by W. H. Propert, Magistrate of the District of Khandesh, for the exercise of the High Court's revisional jurisdiction.

The accused entered into a contract with the complainant, whereby, in consideration of the receipt in advance of a sum of Rs. 45, the former bound himself to render to the latter "service for agricultural and other purposes" for one year. The accused having failed to perform his part of the contract, the complain-

* Criminal Reference, No. 30 of 1883.

(1) The preamble of the Act is as follows :—

Whereas much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency towns of Calcutta, Madras and Bombay, and in other places, from fraudulent breach of contract on the part of artificers, workmen, and labourers who have received money in advance on account of work which they have contracted to perform ; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment : It is enacted as follows :—

1883

EMPRESS
 BHAGVAN
 BHIVSAN.

ant charged him under section 2 of Act XIII of 1859 ; and R. A. Lamb, Magistrate (First Class), convicted the accused, and ordered him to repay to the complainant Rs. 20, or, in default, to perform service for four months.

The District Magistrate, in submitting the record to the High Court, stated the case thus :—

“ I think Rs. 45 was not a sufficient amount for the accused as a return for service extending over a period of twelve months ; and in dealing with this case the Magistrate ought to have dismissed the complaint, deeming the unfairness of the terms of the contract a reasonable excuse for neglecting to perform the contract.

“ I am, therefore, of opinion that the order directing the accused to repay Rs. 20, or, in default, to perform service for four months, should be quashed, and the defendant informed accordingly.”

There was no appearance in the High Court on behalf of any party.

Per Curiam.—Act XIII of 1859 is not intended to apply to a contract of service such as that which the accused entered into in this case. He stipulated that, in consideration of receiving Rs. 45, he bound himself to render service for agricultural and other purposes for the period of one year. The order of the First Class Magistrate is, therefore, reversed ; and, if the Rs. 20 has already been paid to the complainant, the Court directs that it should be paid back to the accused.
