

## CRIMINAL REVISION.

Before Mr. Justice Jardine and Mr. Justice Ránade.

1895.

June 12.

**QUEEN-EMPRESS v. WA'RUBA'I, WIDOW OF BHA'U-PA'NDU GUMRE.\***

*Criminal Procedure Code (Act X of 1882), Sec. 421—Judgment rejecting an appeal need not be in writing—Practice—Procedure.*

In rejecting an appeal under section 421 of the Code of Criminal Procedure (Act X of 1882) the Appellate Court is not bound to write a judgment.

*Ras Behari Das y. Balgopal* (1) followed.

This was an application by the accused for the exercise of the High Court's revisional jurisdiction under section 439 of the Code of Criminal Procedure (Act X of 1882).

The accused and three other women were convicted by A. H. Plunkett, Magistrate of the First Class in the district of Poona, of possessing opium in excess of the quantity allowed by law, an offence under section 9 of Act I of 1878 (Opium Act) and the rules made under section 5 of that Act, and were sentenced to various terms of imprisonment and fine.

All the accused appealed from this decision to the Sessions Judge of Poona, who after sending for the papers rejected the appeals under section 421 of the Criminal Procedure Code (Act X of 1882). The following was the judgment recorded in the appeal:—

"After reading the judgment and proceedings of the lower Court and hearing Mr. K. P. Gadgil, Barrister-at-Law, on behalf of the appellant No. 1, the Court sees no ground for interfering with the conviction and sentence of the lower Court. Appeals rejected under section 421, Criminal Procedure Code."

The present accused now moved the High Court under its revisional jurisdiction for a reversal of the conviction and sentence, and contended (*inter alia*) that the Judge should have stated his reasons for upholding the conviction and have given his opinion on all questions of fact in the case.

*Inverarity* (with *Ganpat Sadashiv Rao*) for the accused.

*Rao Sahab Vasudev J. Kirtikar*, Government Pleader, for the Crown.

\*Criminal Application for Revision, No. 102 of 1895.

(1) I. L. R., 21 Cal., 92.

JARDINE, J.:—The Court, following *Ras Behari Das v. Balgopal*, holds that the Sessions Judge, in rejecting the appeal under section 421 of the Criminal Procedure Code (X of 1882) was not bound to write a judgment; and it dismisses the application made by Wárubái, widow of Bháu Pándurang Gumre.

1895.

QUEEN-  
EMPRÉSS  
v.  
WÁRUBÁI.

*Application dismissed.*

## APPELLATE CIVIL.

*Before Mr. Justice Bayley, Acting Chief Justice, and Mr. Justice Parsons.*

TUKA'RA'M VALAD NAGURA'M (ORIGINAL PLAINTIFF), DECREE-HOLDER, v. KHANDU VALAD BHAVA'NI (ORIGINAL DEFENDANT), JUDGMENT-DEBTOR.\*

1895.

June 13.

*Practice—Procedure—Civil Procedure Code (Act XIV of 1882), Secs. 98, 248 and 647—Darkhást for execution of decree—Notice to the judgment-debtor to show cause why decree should not be executed—Failure of both parties to appear on the appointed day—Dismissal of darkhást.*

A darkhást for the execution of a decree can be dismissed when on its presentation a notice is issued to the judgment-debtor under section 248 of the Civil Procedure Code (Act XIV of 1882), and neither party appears on the day on which it is made returnable.

THIS was a reference by Ráo Sáheb K. S. Risvadkar, Second Class Subordinate Judge of Párner in the Ahmednagar District, under section 617 of the Civil Procedure Code (Act XIV of 1882).

Plaintiff, Tukárám valad Nagurám, having obtained a decree against Khandu valad Bhaváni, presented a darkhást for its execution. The Subordinate Judge issued notice to the judgment-debtor, under section 248 of the Civil Procedure Code (Act XIV of 1882), requiring him to show cause why the decree should not be executed. The notice was made returnable on the 12th March, 1895. On that day neither party having appeared, the Subordinate Judge disposed of the darkhást and made a reference in the following terms:—

“The practice hitherto followed was to dismiss it (darkhást) under sections 98 and 647 of the Civil Procedure Code, no separate procedure having been laid down in the Code in the matter, on the understanding that the procedure applicable to

\* Civil Reference, No. 9 of 1895.