

1919.

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v.
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contrary to the plain and wide words of the clause, and that view was held in the similar case of defendants who had not appealed in *Shivram v. Sakharam*⁽¹⁾. It seems to me, therefore, that the execution was not time-barred and that the appellants were liable to be proceeded against in execution under clause 2 of Article 182 of the First Schedule of the Indian Limitation Act. I am of opinion, therefore, that the appeal must be dismissed with costs.

Appeal dismissed.

R. R.

CRIMINAL REFERENCE.

Before Mr. Justice Shah and Mr. Justice Hayward.

EMPEROR v. VISHVANATH VISHNU JOSHI.*

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June 20.

Criminal Procedure Code (Act V of 1898), section 190—Cattle Trespass Act (I of 1871), section 20—Magistrate—Cognizance of offences—Special authority to try cases under the Cattle Trespass Act.

A Magistrate, who is authorized under section 190 of the Code of Criminal Procedure, 1898, to take cognizance of offences upon receiving complaints, can take cognizance of complaints under section 20 of the Cattle Trespass Act, 1871, although he is not specially authorised in that behalf.

THIS was a reference made by J. Ghosal, District Magistrate of Satara.

The accused was charged with an offence under section 20 of the Cattle Trespass Act, 1871, and placed for trial before the Second Class Magistrate of Patan. The Magistrate acquitted the accused under section 245 of the Criminal Procedure Code, 1898.

⁽¹⁾ (1908) 33 Bom. 39 at p. 43.

* Criminal Reference No. 8 of 1919.

The District Magistrate of Satara, thereupon, referred the case to the High Court, for the following reasons :-

“The Magistrate, Second Class, Patan, was not specially empowered to entertain complaints under section 20 of the Cattle Trespass Act nor was he authorised to try the case by the District Magistrate and so he was not competent to try the case. It is only the District Magistrate or a Magistrate specially empowered by Government who can entertain such complaints and try them and not any Magistrate unless he is authorised by the District Magistrate to try such complaints”.

There was no appearance on either side.

SHAH, J.:—We think that the Second Class Magistrate had jurisdiction to deal with the complaint. The only ground upon which the District Magistrate has suggested that he had no jurisdiction is that he was not specially authorized by the District Magistrate to deal with complaints under section 20 of the Cattle Trespass Act. There is no suggestion, however, that this Second Class Magistrate was not authorized under section 190 of the Code of Criminal Procedure to take cognizance of offences upon receiving complaints, and it must be taken for the purposes of this reference that he was so authorized. No further special authority to take cognizance of complaints under section 20 of the Cattle Trespass Act is needed in view of the definition of the word “offence” in section 4, clause (o) which includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act. It is clear from the Second Schedule of the Code of Criminal Procedure that offences under Special Acts punishable with imprisonment for less than one year or with fine only are triable by any Magistrate. We think, therefore, that the Second Class Magistrate had

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jurisdiction to deal with the complaint. This conclusion derives support from the decision in *Budhan Mahto v. Issur Singh*⁽¹⁾.

We direct the record and proceedings to be returned.

Order accordingly.

R. R.

CRIMINAL REVISION.

Before Mr. Justice Shah and Mr. Justice Hayward.

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June 20.

In re RAJASAHEB RASULSAHEB.²

Mahomedan law—Divorce—Talakuama—Registration of the deed—Neither Kazi nor wife present at the time of the execution of the deed—Deed not immediately communicated to wife—Wife's knowledge of the deed within a reasonable time—Validity of Talakuama.

A Mahomedan executed a *talakuama* (deed of divorce) in the presence of witnesses, and got it duly registered under the Indian Registration Act, 1908. Neither the Kazi nor the wife was present at the time the deed was executed. The deed was not immediately communicated to the wife, but it came to her knowledge within a reasonable time :—

Held, that the *talakuama* was valid according to Mahomedan law.

THIS was an application in revision against an order passed by K. V. Joshi, City Magistrate, First Class, at Bijapur, confirmed by A. C. Wild, Sessions Judge of Bijapur.

The applicant was married to one Khatijabai and had a child by her.

On the 22nd July 1918, Khatijabai obtained an order from a Magistrate directing the applicant to pay to her

⁽¹⁾ (1907) 34 Cal. 926.

² Criminal Application for Revision No. 26 of 1919.