

QUEEN-
EMRESS
v.
ABBI REDDI.

“ during the inquiry and before the order of commitment objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

“ If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.”

The words ‘purporting to exercise powers duly conferred’ at the beginning of this section appears to me to have reference to section 206 of the Code, and to signify ‘power to commit for trial,’ and, as all Magistrates in this presidency are empowered to commit to the Court of Session, I am of opinion that this objection must be disallowed. There can be no doubt that the Sessions Court of the North Arcot District is the proper Court to which the case should have been committed, and, as the commitment, even if irregular, cannot have prejudiced the accused, the objection must be further disallowed with reference to the provisions of section 537 of the Code.

Seeing no reason to differ from the finding arrived at by the Judge and assessors we dismiss these appeals.

Ordered accordingly.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

KRISHNA CHADAGA (PLAINTIFF), APPELLANT,

v.

GOVINDA ADIGA (DEFENDANT), RESPONDENT.*

Revenue Recovery Act—Madras Act II of 1864, s. 11—Whether gathered products belonging to a tenant can be distrained by Government on account of the landlord's arrears of revenue.

Government can attach for arrears of revenue under section 11 of Madras Act II of 1864 the gathered products belonging to a tenant, provided that the products are of the land on account of which the arrears of revenue have accrued.

CASE stated under section 617 of the Civil Procedure Code by W. C. Holmes, District Judge of South Canara, in appeal suit No. 339 of 1892.

* Referred Case No. 138 of 1893.

This reference arose from a suit in which a landlord sued his tenant, *inter alia*, for 10 mudies of rice-rent, in respect of which the tenant denied his liability on the ground that the said rice was distrained by the Revenue authorities in satisfaction of arrears of revenue due by the landlord. The District Judge decided that section 11 of Madras Act II of 1864 does not empower the Revenue authorities to distrain *gathered* products in possession of a tenant for arrears of revenue accruing on the land, but referred the point to the High Court as being one not free from doubt.

Narayana Rau for appellant.

Respondent was not represented.

JUDGMENT.—Our answer to the question is that the Government can attach, under section 11 of Madras Act II of 1864, for arrears of revenue, gathered products belonging to a tenant, provided that they are the products of the land on account of which the arrears of revenue have accrued.

The products belonging to a tenant are made liable by the section, and clause 3 gives a right to the tenant to deduct the value of the same from rent then due or thereafter to become due to the landlord on account of the land on which the products were grown.

It follows that the products liable to distraint are the products of the defaulter's land, though such products may belong to the tenant.
