

APPELLATE CRIMINAL.

Before Mr. Justice Benson and Mr. Justice Boddam.

In re K. RANGAN AND FORTY OTHERS (ACCUSED NOS. 1 TO 41),

PETITIONERS.*

1904.
November 14.

Criminal Procedure Code (Act V of 1898), sec. 110—'Any person within the local limits', meaning of—Jurisdiction of Magistrates over outsiders found within local limits—Object of the section.

In order to give jurisdiction to a Magistrate to proceed under section 110, Criminal Procedure Code, it is not necessary that the person proceeded against should be 'residing' within the local limits of his jurisdiction.

The meaning of the expression 'any person within the local limits' in section 110 is 'any person who is within the local limits at the time the magistrate takes action under the section.'

Ketaboi v. Queen-Empress, [(1900) I.L.R., 27 Calo., 993], not followed.

A contrary view would defeat the object of the section, viz., prevention of crime, as then it would be impossible to deal under the section, with wandering gangs of criminals having no fixed residence or with habitual thieves or desperate characters belonging to foreign territories, who infest British India.

PETITION, under sections 435 and 439 of the Criminal Procedure Code, praying the High Court to revise the judgment of R. D. BROADFOOT, the Sessions Judge of Chingleput, in Criminal Miscellaneous Case No. 12 of 1904, referred under section 123 (2), Criminal Procedure Code, by S. G. ROBERTS, the Joint Magistrate of Chingleput, in Criminal Miscellaneous Case No. 30 of 1904.

The facts of the case are set out in the order.

Messrs. E. R. Osborne and K. Kuppusami Ayyar for the petitioners.

The acting Public Prosecutor, *contra*.

ORDER.—It is urged by counsel for the petitioners that some of the persons who have been required to give security for good behaviour reside outside the jurisdiction of the Magistrate who took action under section 110, Criminal Procedure Code, and our attention is drawn to the case of *Ketaboi v. Queen-Empress*(1).

In that case it was held that, according to the true construction of section 110, the Magistrate would have no jurisdiction to deal with the case, unless the person proceeded against was "residing" within the local jurisdiction of the Magistrate.

With all respect to the learned Judges who decided that case, we are not prepared to follow their decision. The words of the section are "wherever . . . a Magistrate . . . receive"

* Criminal Revision Case No. 355 of 1904.
(1) (1900) I.L.R., 27 Calo., 993.

information that any person within the local limits of his jurisdiction . . . is by habit a robber" and so forth, he may proceed under the section. Had the legislature intended to restrict the jurisdiction of the Magistrate to persons residing within his local jurisdiction, nothing would have been easier than to have said so; but the legislature has refrained from imposing this limitation, and we are not justified in importing it into the law. The law simply says "any person within the local limits" and this we understand to mean any person who is within the local limits at the time when the Magistrate takes action under the section. The object of the section is the prevention of crime, and its object would, in our opinion, be liable to be defeated if its scope were restricted to persons residing within the Magistrate's jurisdiction. As the Sessions Judge points out if that were so, we should have this absurdity that the Magistrates in British India would have no power to proceed under the section against bad characters, no matter how desperate and dangerous they might be, who reside in French or other foreign territory, though they might infest villages in British India, and be well known to the authorities as habitual thieves; nor would any Magistrate have power to proceed against those gangs of criminals who have no residence any where but wander from district to district throughout the year.

We dismiss the petition.

BENSON AND
BODDAM, JJ.

In re
BANGAN.

APPELLATE CIVIL.

Before Mr. Justice Abdur Rahim and Mr. Justice Ayling.

RAMASAMI CHETTI (TWELFTH DEFENDANT), APPELLANT, *

v.

1910,
October 8,
November 22.

PONNA PADAYACHI AND FIFTEEN OTHERS (PLAINTIFFS NOS. 1 TO 3, AND DEFENDANTS NOS. 1 TO 11, 13 AND 14), RESPONDENTS.*

Adverse possession—Hypothecation—Stranger in adverse possession for 12 years as against mortgagor, effect of, on mortgagee's rights—Payments of interest and acknowledgment by mortgagor, effect of.

Adverse possession by a stranger for more than 12 years of a property, which is subject to a hypothecation, not only extinguishes the rights of the

* Second Appeal No. 1689 of 1909.

[N.B.—This case is dissented from *Parthasarathy Naikan v. Lakshmana Naikan*, Second Appeal No. 844 of 1907, reported in (1911) 21 M.L.J., 467-Bd.]