

in my mind to attribute to them such an intention unless most clearly expressed. It may be said that the words 'suit for an account' may cover a suit for an account of the proceeds the trustee had received or might have received but for his wilful default or neglect, that is to say, an account on the footing of wilful default or neglect. But to give that meaning to the words 'suit for an account' as introduced into section 10 of the Indian Limitation Act, 1908, would be entirely to alter the whole scope of the section and to run counter to the whole tendency of modern legislation. I cannot therefore accept that contention. It follows that the present claim both for failure to get possession of the corpus and income of the trust property falls within the operation of the ordinary law of limitation. If that be so, it is not suggested that the suit is not barred. In the result, on this ground the appeal must be allowed with costs of this appeal and with any extra cost incurred in the proceeding before the learned Judge which is now under appeal payable out of the temple funds.

OLDFIELD, J.—I agree.

THOLASINGAM
GHETTY
v.
VEDACHELLA
AIYAH.
—
WALLIS, C.J.

OLDFIELD, J.

S.V.

APPELLATE CRIMINAL.

Before Mr. Justice Ayling and Mr. Justice Sadasiva Ayyar.

MUTHIA NAICK AND TWO OTHERS (ACCUSED NOS. 1, 2 AND 5),
PETITIONER,

1917.
July 19.

v.

THE KING-EMPEROR (RESPONDENT) *

Criminal Procedure Code (Act V of 1898), sec. 345—Composition of an offence with one of several accused persons, effect of.

The composition of an offence under section 345 of the Criminal Procedure Code with one of several accused persons does not effect an acquittal of the others.

Chandra Kumar Das v. The Emperor (1902) 7 C.W.N., 176, dissented from.

PETITION under sections 435 and 439 of the Criminal Procedure Code (Act V of 1898) praying the High Court to revise

* Criminal Revision Case No. 187 of 1917,
Criminal Revision Petition No. 149 of 1917.

MUTHIA
NAICK
v.
THE KING-
EMPEROR.
—

the judgment of F. H. SENNECK, the Sub-Divisional Magistrate of Sivakasi, in Criminal Appeal No. 45 of 1916, preferred against the judgment of S. AYYATHURAI AYYAR, the Second-class Magistrate of Virudupatti, in Calendar Case No. 100 of 1916.

A complaint of 'hurt' under section 323, Indian Penal Code, was preferred against five persons in the Sub-Magistrate's Court of Virudupatti. The complaint against two of them was not proceeded with as the offence was compounded with them and the Sub-Magistrate acquitted them under section 345 (6) of the Criminal Procedure Code. A charge of hurt was framed against the other accused and they were convicted of the offence. The conviction was confirmed on appeal by the Sub-Divisional Magistrate. The accused preferred a revision petition to the High Court and contended *inter alia* that, on the compounding of the offence with some of the accused, all the accused were entitled to an acquittal under section 345 of the Criminal Procedure Code.

S. Ranganadha Ayyar for Dr. *S. Swaminadhan* for the petitioner.

E. R. Osborne, the Acting Public Prosecutor, for the Crown.

AYLING AND
SADASIYA
AYYAR, JJ.

ORDER.—Petitioners' vakil contends that the composition of an offence under section 345 of the Code of Criminal Procedure with one of several accused persons has the effect of an acquittal of all the accused persons. We can find nothing in the section to support this interpretation and if this is really the meaning of the learned Judges in *Chandra Kumar Das v. The Emperor*(1), we must respectfully dissent. No other authority is quoted by petitioner.

The petition is dismissed.

K.R.

(1) (1902) 7 C.W.N., 176.
