

those which would apply if he had not converted it into money.

I, therefore, answer the question of the referring Bench by saying that the suit is not barred by limitation. I, therefore, hold that this Appeal must be dismissed with costs.

ABDUL
KADIR
P.
SOMA-
SUNDARAM
CHETTIAR.
—
SCHWABE,
C.J.

K.R.

APPELLATE CRIMINAL.

Before Mr. Justice Oldfield and Mr. Justice Ramesam.

MOHIDEEN PAKKIRI MARAKKAYAR (ACCUSED),
PETITIONER.*

1922,
July 17.

Income-Tax Act (VII of 1918), ss. 40, 17, 21 (3)—Indian Penal Code (XLV of 1860), sec. 177—False verification—Presentation of petition—Jurisdiction of Court, whether where verification made or petition presented.

A person making a false verification in a statement under section 17 or 21 (3) of the Income-tax Act, 1918, can legally be tried under section 40 of the Act only by a Court having jurisdiction over the place where the verification was made and not by a Court having jurisdiction over the place where the petition was presented.

PETITION under sections 435 and 439 of the Criminal Procedure Code praying the High Court to revise the order of N. KELU NAYAR, Sub-Divisional First-Class Magistrate of Devakottai, in Calendar Case No. 79 of 1921.

The facts are set out in the judgment.

C. S. Venkata Achariyar and M. S. Ramamja Ayyangar for petitioner.

Public Prosecutor for the Crown.

JUDGMENT.

In re.
 MOHIDEEN
 PAKKIRI
 MARAKKAYAR.

We are asked in this revision case to interfere with an order passed by the First Class Sub Divisional Magistrate of Devakottai division disallowing the objection of the petitioner in a criminal case.

The case was instituted on a complaint by the Income-tax Assistant Tahsildar of Devakottai. In that complaint, the accused was charged under section 177, Indian Penal Code, within the meaning of section 40 of the Income-tax Act VII of 1918. The facts set out are that the accused verified a petition which he afterwards presented to the Revenue Divisional Officer under section 21 of the Income-tax Act. That verification was made at Kottaiapatnam in the Tanjore district. But the last sentence of the complaint states that the offence was committed at the place where the return was received by the Revenue Divisional Officer, Devakottai, within the lower Court's jurisdiction.

It must be borne in mind that the complaint is statedly of an offence punishable under section 177, Indian Penal Code, within the meaning of section 40 of the Income-tax Act. We are therefore concerned with the wording of the latter section and have to deal with it as it stands. Section 40 of the Income-tax Act says that, if a person makes a statement in a verification mentioned in section 17 or section 21 (3) which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. Where then did the petitioner make the statement in his verification? According to the complaint he made it in Devakottai. The learned Public Prosecutor, however, has argued that with reference to section 179, Criminal Procedure Code, the offence constituted by the verification will be triable,

not only where the verification was effected, but also where any consequence thereof ensued, and that some sort of consequence must be held to have ensued where the verified petition was received by the authorities. We have not been able to understand from the learned Public Prosecutor what is the exact consequence to which he refers. For, the receipt of the petition can in no sense be the consequence of its verification, since the verification would go no way towards putting the petition in transit from one place to the other. In *In re. Rambilas*(1), it was held in effect that the consequence contemplated in section 179 must be an essential part of the offence charged. That requirement is not fulfilled in the case before us. It has been suggested that an absurdity will be entailed by the petitioner's construction of section 40. For on that construction, any person who verified a petition would be punishable, even though no use of the petition were made and it never left his possession. We think that any such anomaly is sufficiently excluded by the reference to sections 17 and 21 (3) in section 40. Taking this view we must hold that the charge can legally be tried only by the Court having jurisdiction over Kottaipatnam, Tanjore district, the place where the verification of the petition took place.

We therefore direct the lower Court to return the complaint to the complainant for presentation to the Court having jurisdiction.

M.H.H.

In re.
MOHIDEEN
PAKKIRI
MARAKKAYAR

(1) (1915) I.L.R., 38 Mad., 639.
