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the Court of Session to have committed, the Sessions Judge was not acting illegally in adding other charges for offences which, had they stood alone, would not have been exclusively triable by him. The graver charge carried the others into Court with it. But the offence under s. 195 is also triable exclusively by the Court of Session, and if this was an offence which came under the notice of the Court of Session when trying the charge under s. 218, he was at liberty under s. 472 to charge the petitioner with it. Whether the charge can be supported on the trial is not for us to determine before trial.

The offence under s. 193 is not exclusively triable by a Court of Session, but, as already insisted on, when the Court of Session had already ordered the commitment under s. 211 (the latter part of the section) and s. 195 for offences which were exclusively triable by him, there was no illegality in adding the other charge under s. 193. He might have omitted to do so in the order of commitment, and have added the charge after the commitment had been actually made and during trial.

If the petitioner, as he alleges, never committed this offence, he can obtain a good deliverance for himself by proving his innocence. I would dismiss the petition.

Petition dismissed.

Before Mr. Justice Oldfield.

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Contempt of Court—Act XLV of 1860 *(Penal Code) s.* 174 — *Act X of* 1872 *(Criminal Procedure Code), ss.* 471, 473.

Where a settlement officer, who was also a Magistrate, summoned, as a settlement officer, a person to attend his Court, and such person neglected to attend, and such officer, as a Magistrate, charged him with an offence under s. 174 of the Indian Penal Code, and tried and convicted him on his own charge, *held* that such conviction was, with reference to ss. 471 and 473 of Act X of 1872, illegal.

THIS was a reference to the High Court by the Sessions Judge of Azamgarh under s. 296 of Act X of 1872. Mr. J. Vaughan, who was a settlement officer appointed under Act XIX of 1873,

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and who was at the same time a Magistrate of the first class, in the exercise of the powers conferred upon him by Act XIX of 1873, summoned to his Court one Sukhari, whose attendance he considered necessary for the purpose of certain business before him. Sukhari neglected to attend on the day specified in the summons, whereupon Mr. Vaughan, acting as a Magistrate of the first class, issued a warrant for his arrest, and on his appearance proceeded to try him for the offence of disobeying the lawful order of a public servant, an offence punishable under s. 174 of the Indian Penal Code, and convicted him of that offence. The Sessions Judge considered that the proceedings of Mr. Vaughan were contrary to law, and referred the case to the High Court for orders.

The High Court made the following order:

OLDFIELD, J.—I am of opinion that the conviction is illegal with reference to the provisions of ss. 473 and 471 of the Criminal Procedure Code.

By the former section no Court shall try any person for an offence committed in contempt of its own authority, and an offence under s. 174 of the Indian Penal Code is such an offence, and the procedure prescribed in s. 471 shows that it was not intended that an officer should try such an offence in his capacity as Magistrate when committed before him in his capacity as a settlement officer. It is enacted that the Court may, after making such preliminary inquiry as may be necessary, either commit the case itself or send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

When the officer presiding over the Court exercises revenue as well as Magistrate's jurisdiction, it will not be a proper compliance with these provisions for the officer presiding to make the case over to himself as Magistrate; that will not be sending the case to any Magistrate within the meaning of the section. The obvious intention of the law is that the officer before whom the offence was committed shall not charge and try the accused person on his own charge.

Conviction quashed.