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O'BRIEN.

committed by him under section 408 of the Indian Penal Code. The contention on his behalf is that, if he committed any offence, it was committed in Lower Bengal and not within the Magistrate's jurisdiction at Cawnpore. Of course I express no opinion whatever as to whether the applicant committed an offence at all. That matter has yet to be decided. If, however, he parted with goods of his employers in Lower Bengal and did not remit the price of those goods, as he was bound to do, to his employers in Cawnpore, it appears to me that the case comes within section 179 of the Code of Criminal Procedure; that the consequence of the applicant having made away with, for his own purposes, goods of his employers in Lower Bengal, or the price of them, if he did so, was that a loss of the value of those goods ensued to his employers in Cawnpore. It might be very difficult to prove where the actual offence of breach of trust was committed. Of course the applicant denies he has committed any. At one time he said the goods were on their way to Cawnpore. Another time he said the goods were at Lucknow. The goods have disappeared. The applicant went to Cawnpore and failed to account. The matter can be inquired into at Cawnpore, and the Magistrate at Cawnpore has jurisdiction in the case. I dismiss the application.

As to the charge relating to the coal I have not sufficient facts before me to decide whether the Magistrate has jurisdiction to inquire or not.

REVISIONAL CRIMINAL.

Before Mr. Justice Aikman.

MUTASADDI AND OTHERS (APPLICANTS) v. MANI RAM (OPPOSITE PARTY).
Criminal Procedure Code, sections 545, 547—Fine—Portion of fine paid as compensation to complainant—Sentence of fine set aside—Recovery of compensation from complainant—Procedure.

On a sentence of fine being passed it was ordered, under section 545 of the Code of Criminal Procedure, that a portion of the fine should be paid as the compensation to the complainant, and it was so paid. Subsequently the sentence was set aside in revision by an order of the High Court which directed that the fines should be refunded.

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Held that the sum which had been paid to the complainant was recoverable under this order as part of the original fine, and that it was recoverable by process under section 547 of the Code and not by suit in a Civil Court.

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THE facts of this case sufficiently appear from the judgment of the Court.

Mr. *Roshan Lal*, for the appellant.

The Government Pleader (for whom Pandit *Suraj Nath*) for the Crown.

AIKMAN, J.—The applicants were convicted by the Joint Magistrate of Dehra Dún of an offence punishable under section 411 of the Indian Penal Code. Four of them were sentenced to be fined Rs. 40, and the remaining two to fines of Rs. 20 each, or, in default, to undergo one month's rigorous imprisonment. By his order the Joint Magistrate directed that, out of the total sum of Rs. 200 imposed as fine, Rs. 100 should, under the provisions of section 545 of the Code of Criminal Procedure, be paid to Mani Ram, the complainant in the case, as compensation. The fines were paid, and, the case not being an appealable one, Rs. 100 were at once paid to the complainant. The six accused persons applied to this Court for revision of the Joint Magistrate's order. A Bench of this Court, consisting of the learned Chief Justice and my brother Banerji, set aside the convictions and sentences imposed upon the applicants, and further directed that the fines, if paid, be refunded. When the applicants applied to the Magistrate for the refund of the fines in compliance with the order of this Court the sum of Rs. 100 was repaid to them. As regards the balance of Rs. 100 they were directed to sue the complainant Mani Ram in the Civil Court.

The applicants come here asking for the revision of this order. In my opinion the order of this Court directing that the fines which the applicants paid should be repaid to them implies an order that the fines, in whosoever hands they might be, should be payable to them. In my opinion the provisions of section 547 of the Code of Criminal Procedure are wide enough to cover a case like the present. I see no reason why the applicants should be driven to have recourse to a civil suit against the complainant Mani Ram in order

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that the direction of this Court as to the repayment of the fines should be given effect to. It is doubtful even whether in a Civil Court they would have any remedy against Mani Ram, as it was from the Magistrate, and not from the applicants, that Mani Ram received the money. I set aside the Magistrate's order and direct him to call upon Mani Ram to refund the applicants' money which was paid to him. If he refuses, the Magistrate will take action in the manner directed in section 547 of the Code of Criminal Procedure, and, when the money had been recovered, if it is recovered, will repay it to the applicants.

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Before Mr. Justice Banerji and Mr. Justice Aikman. -

BALWANT AND ANOTHER (APPLICANTS) v. KISHEN (OPPOSITE PARTY). *
Jurisdiction—Transfer of Magistrate—Order passed by a Magistrate after his successor had entered upon his appointment—Criminal Procedure Code, section 12.

By an order of the Local Government Babu Dila Ram, a Magistrate exercising jurisdiction in the Meerut district, was transferred from that district "on the arrival of Kunwar Kamta Prasad."

Held by Banerji, J. that the effect of the order of transfer so expressed was that Babu Dila Ram ceased to have jurisdiction as a magistrate within the Meerut district from the time when Kunwar Kamta Prasad commenced work as a magistrate in that district.

Held by Aikman, J. that the effect of the said order was that Babu Dila Ram ceased to have jurisdiction on the arrival of Kunwar Kampta Prasad; but whether such arrival was his arrival within the limits of the district or at headquarters was not clear from the order.

Empress of India v. Anand Sarup (1) referred to.

THIS was a reference under section 438 of the Code of Criminal Procedure made by the Sessions Judge of Meerut. The facts of the case are fully stated in the judgment of Banerji, J.

The Public Prosecutor (Mr. E. Chamier) for the Crown.

BANERJI, J.—This case has been referred by the learned Sessions Judge of Meerut under the following circumstances. On the 9th of June 1896 Babu Dila Ram, a magistrate of the first class, granted sanction under section 195 of the Code of Criminal

* Criminal Revision No. 426 of 1896.

(1) I. L. R., 3 All, 568.