

Before Sir John Edge, Kt., Chief Justice.

QUEEN-EMPRESS v. O'BRIEN.

1896
August 21.

Criminal Procedure Code, sections 179, 185—Jurisdiction—Place where consequences of act ensued—Criminal breach of trust—Act No. XLV of 1860 (Indian Penal Code), section 408.

B., an employé of a Company the office of which was at Cawnpore, was charged with the offence punishable under section 408 of the Indian Penal Code. The complainant alleged that B being in charge on behalf of the Company, at a place in Bengal, of certain goods belonging to the Company and being ordered to return the said goods to Cawnpore, never did so, and failed to account for the goods or their value, to the loss of the Company. *Held* that on the statement of the case by the complainant the Courts at Cawnpore had jurisdiction to inquire into the charge, inasmuch as the consequence of B's acts, namely, loss to the Company, occurred in Cawnpore.

IN this case one W. O'Brien, an employé of the Muir Mills Company, of Cawnpore, was sent to Manbhum in Bengal on business of the Company. While in Bengal certain goods belonging to the Company were sent to him for sale, the Company having some intention of starting an agency in Bengal. Subsequently, however, the Company altered their plans and demanded the return of the goods, or of their value if sold. The goods were not returned, and ultimately, after repeated demands, the Company filed a complaint in a Magistrate's Court at Cawnpore, charging O'Brien with the commission of criminal breach of trust under section 408 of the Indian Penal Code. Upon this O'Brien applied to the High Court under section 185 of the Code of Criminal Procedure, asking that it might be declared that the Court at Cawnpore had no jurisdiction to inquire into the alleged offence, on the ground that, if any offence had been committed by the applicant, that offence was committed in Bengal and not within the jurisdiction of any Criminal Court at Cawnpore.

Mr. C. Dillon, for the applicant.

The Public Prosecutor (for whom Mr. W. K. Porter) for the Crown.

EDGE, C. J.—This is an application to the High Court to act under section 185 of the Code of Criminal Procedure. The case against the applicant is one of an offence alleged to have been

1896

QUEEN-
EMRESS
v.
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.

1896^b

September 2.