

## REVISIONAL CRIMINAL.

1902

February 7.

*Before Sir John Stanley, Knight, Chief Justice.*

EMPEROR v. GULZARI LAL.\*

*Act No. XLV of 1860 (Indian Penal Code), section 406—Criminal breach of trust—Charge—Criminal Procedure Code, sections 222, 234.*

Where an accused person is charged with having misappropriated or committed criminal breach of trust in respect of an aggregate sum of money, the whole sum being alleged to have been wrongfully dealt with by the accused within a period not exceeding one year, the mere fact that the items composing the such aggregate sum are specified and may be more than three in number will not render the charge obnoxious to the prohibition implied by section 234 of the Code of Criminal Procedure. *Subrahmanya Ayyar v. King-Emperor* (1) distinguished.

THE applicant in this case was charged with having committed the offence of criminal misappropriation or cheating in respect of an aggregate sum of Rs. 37-3-6 representing various amounts collected by him under false pretexts from certain tenants, and was sentenced therefor to two years' rigorous imprisonment. He appealed from this conviction and sentence to the Sessions Judge, who maintained the conviction, whilst reducing the sentence to one of eighteen months. Against this order an application for revision was presented to the High Court, and there it was argued, as it had been argued before the Sessions Judge, that the charge was illegal, having regard to the ruling of the Privy Council in the case of *Subrahmanya Ayyar v. King-Emperor* (1). The charge in the present case was a charge of misappropriating the sum total of different items, all alleged to have been collected by the applicant within a period of less than one year, but it further specified the various items collected, which were more than three in number.

Babu *Satya Chandra Mukerji*, for the appellants.

The Assistant Government Advocate (Mr. *W. K. Porter*), for the Crown.

STANLEY, C.J.—There are no grounds for this application. Gulzari Lal was tried and convicted of the embezzlement of sums of money amounting in the aggregate to Rs. 37-3-6, moneys paid to him as patwari of a certain village by the tenants under the

\* Criminal Revision No. 899 of 1901.

(1) (1901) I, L. R., 25 Mad., 61; S. C., 5 C. W. N., 866.

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Court of Wards, and which he represented that he had authority to collect. In the charge the aggregate amount of the items is stated, and, in addition to that, the particulars giving the dates and the amounts of three payments are also stated. It is to be observed that the alleged criminal breach of trust was committed within the period of one year, and therefore the provisions of sub-section 2 of section 222 of the Code of Criminal Procedure apply. This sub-section is in the following terms:—"When the accused is charged with criminal breach of trust, or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234: provided that the time included between the first and last of such dates shall not exceed one year." It seems to me clear that particulars as required by this section had been given—in fact more particulars than it was necessary to give to the accused were given in the charge. It has been argued by the learned vakil for the applicant that because it was in the power, or may have been in the power, of the prosecution to supply fuller particulars, they ought to have done so, and are not entitled to the benefit of the latter part of the section. I find, however, nothing in the Code of Criminal Procedure to warrant such an argument. This case is not governed by the decision of their Lordships of the Privy Council in the case of *Subrahmaniam Ayyar v. King-Emperor* (1), inasmuch as in that case the offences with which the accused was charged extended over a period longer than a year. For these reasons the application is refused. The applicant must surrender himself and undergo the rest of his sentence.

(1) (1901) I. L. R., 25 Mad., 61, S. C., 5 C. W. N., 866.