

REVISIONAL CRIMINAL.

1912
May, 6.*Before Mr. Justice Karamat Husain.*

GANESHI LAL v. NAND KISHORE.*

Criminal Procedure Code, section 179—Criminal misappropriation—Jurisdiction—“Place where consequences of act ensued.”

The word ‘consequence’ in section 179 of the Criminal Procedure Code means a consequence which forms a part and parcel of the offence. It does not mean a consequence which is not such a direct result of the act of the offender as to form no part of that offence.

Hence where an agent in charge of a branch shop in Sultanpur misappropriated money belonging to his principal which should have been sent to the head office at Cawnpore, it was held that the courts at Cawnpore had no jurisdiction to try the agent for criminal misappropriation. *Queen-Empress v. O'Brien* (1) and *Colville v. Kisto Kishore Bose* (2) distinguished. *Babu Lal v. Ghansham Das* (3) referred to.

A complaint was lodged before a Magistrate of the Cawnpore district by one Nand Kishore, carrying on business at Cawnpore, against Ganeshi Lal, upon the following allegations. The complainant stated that Ganeshi Lal had been put in charge as his *gumashita* of a branch shop at Gauriganj in the district of Sultanpur; that contrary to his instructions Ganeshi Lal had kept the shop open and had realized some 1,500 and odd rupees, which he had misappropriated instead of sending it to the head office at Cawnpore. The Magistrate rejected the complaint, holding that he had no jurisdiction to entertain it. The Sessions Judge, however, took a contrary view and sent the case back to the Magistrate. The accused thereupon applied in revision to the High Court.

Babu *Satya Chandra Mukerji*, for the appellant.

Mr. *C. Ross Alston*, for the opposite party.

KARAMAT HUSAIN, J.—In this case Nand Kishore lodged a complaint against Ganeshi Lal. The substance of the complaint is as follows:—The head office of the complainant is at Cawnpore. A branch of the firm was opened at Gauriganj, district Sultanpur, in Sambat 1964. The accused was appointed a *gumashita* and his share was fixed at four annas in the rupee. He worked till Sambat 1966 and was asked to come to Cawnpore. The accused

* Criminal Revision No. 195 of 1912 from an order of Austin Kendall, Sessions Judge of Cawnpore, dated the 22nd February, 1912.

(1) (1896) I. L. R., 19 All., 111.

(2) (1899) I. L. R., 26 Calc., 746.

(3) (1903) 5 A. L. J., 333.

1912

GANESHI
LAL
v.
NAND
KISHORE.

seemed to have been guilty of criminal breach of trust. The complainant directed him to close the shop at Gauriganj and not to reopen it until the complainant had gone there and had checked the account. The complainant went to his home at Bhiwani in the Hissar district. When he returned in 1907, it came to his knowledge that the accused had opened the shop and misappropriated the money realized by him which he had to send to Cawnpore. A sum of about Rs. 1,583-14-6 has been misappropriated by him. When the complainant was examined, he distinctly stated that the accused misappropriated the money belonging to the branch of the firm at Gauriganj. The Magistrate to whom the complaint was made came to the conclusion that he had no jurisdiction inasmuch as the offence appeared to have been committed in Gauriganj. In revision, the learned Judge was of opinion that the court at Cawnpore had jurisdiction. In his order he says:—

“The facts alleged constitute an even stronger case for jurisdiction in the Cawnpore courts than did the facts in a previous case, I. L. R., 19 All., 111, or I. L. R., 26 Calc., 746. Having regard to section 179 and to the above rulings in explanation thereof, I find that the Magistrate had jurisdiction to proceed with the case.” An application in revision is made to this Court, and it is urged on behalf of the applicant that the order of the Joint Magistrate is right. Section 179 of the Code of Criminal Procedure runs as follows:—“When a person is accused of the commission of any offence by reason of anything which has been done and of any consequence which has ensued, such offence may be inquired into or tried by a court within the local limits of whose jurisdiction any such thing has been done or any such consequence has ensued.” The word ‘consequence’ in this section, in my opinion, means a consequence which forms a part and parcel of the offence. It does not mean a consequence which is not such a direct result of the act of the offender as to form no part of the offence. In *Babu Lal v. Ghansham Das* (1) it is remarked:—“It is contended that section 179, by reason of the words contained in it ‘and of any consequence which has ensued,’ gives the Magistrate at Aligarh in this case jurisdiction. But the only reasonable interpretation which can be put upon these words is that they are

(1) (1908) 5 A. L. J., 333.

intended to embrace only such consequences as modify or complete the acts alleged to be an offence." The above remarks support the view I take. The loss to the principal firm at Cawnpore is, therefore, not a consequence of the act of the accused committed at the branch of the firm within the meaning of section 179, Criminal Procedure Code. In the case of *Colville v. Kristo Kishore Bose* (1) I find the following passage:—"He seems to have thrown out in the course of his judgement that he has no jurisdiction to take cognizance of the complaint because the offence, if any, was committed at Shalunar within the jurisdiction of the District Magistrate of Howrah. But it appears to us that the moneys having been received from the complainant's firm at Calcutta, and the balance of accounts as stated by the complainant having been rendered in Calcutta, the Presidency Magistrate had jurisdiction to take cognizance of the complaint in question." The above facts are very different from the facts of the case before me, and the case is no authority for the proposition that if an offence under section 408 is committed in a branch of a firm the courts at the head office of the firm will have jurisdiction. In the case of *Q. E. v. O'Brien* (2) the facts were also different, and the loss to a branch of the firm was not held to be a loss to the principal firm at another place. For the above reasons, I hold that the courts at Cawnpore have no jurisdiction to proceed with the case, and set aside the order of the learned Sessions Judge. Let the record be returned.

1912

 GANESHI
 LAL
 v.
 NAND
 KISHORE.

Application allowed.

(1) (1899, I. L. R., 26 Calc., 746.

(2) (1896) I. L. R., 19 All., 111.