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the fact that a sum of Rs. 12,932, neither less nor more, remains capable of realization under the decree. This decision should be held to determine only this point that the decree has not been satisfied in full, as alleged by the judgment-debtors, and that the decree-holder is not bound to accept payment of Rs. 13,000 by conveyance of the house or of the zamindari property referred to in the alleged compromise.

Appeal dismissed.

Cross-objection allowed in part.

REVISIONAL CRIMINAL.

Before Mr. Justice Lindsay.

EMPEROR v. NARAIN.*

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Criminal Procedure Code, section 188—Act No. XLV of 1860 (Indian Penal Code), section 363—Kidnapping from lawful guardianship—Offence committed outside British territory—Jurisdiction—Certificate of Political Agent.

The absence of the certificate of the Political Agent, required by section 188 of the Code of Criminal Procedure, is an absolute bar to the trial of a case to which the provisions of that section apply. *Queen-Empress v. Ram Sundar* (1) followed.

THIS was a reference made by the Assistant Sessions Judge of Mainpuri in a case which had been committed to his court for trial. The facts of the case are thus stated in the referring order :—

Musammat Ram Piari, a girl of 11 years, was taken away by a woman, Musammat Nangi, to her house in mauza Bhikha-Keri in the Alwar State. Instead of sending back the girl to her father, as she used to do formerly, she took her to the Khelri railway station, where she met the accused. From thence, all the three travelled to the Agra Fort station, from which place Musammat Nangi was sent back, while the accused purchased tickets for Kashi and took the girl with him. During the journey one Lal Singh had a talk with these persons and on finding from it that the girl was being kidnapped reported the matter to the police, who challaned the case.

* Criminal Reference No. 16 of 1919.

(1) (1896) I. L. R., 19 All., 109.

After the charge had been amended, the learned vakil of the accused raised a preliminary objection to the hearing of this case by this Court on the following grounds :—

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1. That the offences with which the accused is charged were committed in the Alwar State, and that consequently the commitment without a certificate from the Political Agent of that State, as required by section 188 of the Code of Criminal Procedure, is bad in law.

2. That as the offences took place outside the jurisdiction of this Court, it has no jurisdiction to try them.

From the facts that have been put down above, it would appear that the offence of kidnapping the girl from lawful guardianship, with the intent that she would be compelled to marry against her will, was complete at the time the girl was taken to the Khelri railway station, and as the offence of kidnapping is not a continuing offence, I think a commitment under that charge without the certificate mentioned in section 188 of the Code of Criminal Procedure is bad in law. The second offence with which the accused is charged is that of concealing the girl after she had been kidnapped.

It is said that as the accused took her away from the place of her lawful guardian's residence, he did so with a view to conceal her. Without entering into the question whether this is 'concealment' as contemplated by section 368 of the Indian Penal Code, I may say that this offence too (if committed) was committed at Khelri railway station, and as such, a trial of that charge here without the above-mentioned certificate may not be made. It was said that the offence of "concealing" is a continuing offence, under which the minor was being 'conveyed' by the accused at the time of arrest, and consequently this Court has jurisdiction to try him under section 181 (4) of the Code of Criminal Procedure. I do not think that this contention is good (*vide* the top of page 348, Henderson's Criminal Procedure Code, 8th edition, on this point). In any event, the trial of this case by the Alwar court where the offence was committed and near which all the prosecution and defence witnesses reside, would be most desirable. I may put down in this connection that Musammat Nangi, the principal offender, has not been put in here either

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as a witness or an accused, and a trial of this case without her appearance would not be proper. I therefore submit this case to the Hon'ble High Court with the request that the commitment may either be quashed, or such order may be passed as may appear proper in the circumstances of this case.

The accused was not represented.

The Assistant Government Advocate (Mr. B. Malcomson), for the Crown.

LINDSAY, J.:—After perusal of the order of reference made by the Sessions Judge I am satisfied that this is a case in which the order of commitment should be quashed on a point of law. The absence of the certificate of the Political Agent as required by section 188 of the Code of Criminal Procedure is in this instance an absolute bar to the trial of this case. See *Queen-Empress v. Ram Sundar* (1). I quash the commitment proceedings accordingly.

Commitment quashed.

Before Mr. Justice Lindsay.

EMPEROR v. BINDESHRI GOSHAIN AND ANOTHER.*

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February, 21.

Criminal Procedure Code, section 254—Commitment of case which Magistrate was competent to try—Commitment quashed—Act No. XLV of 1860 (Indian Penal Code), section 222.

It is not competent to a Magistrate to commit a case which it is within his jurisdiction to try unless he is of opinion that the accused, if guilty, cannot be adequately punished by him.

THIS was a case referred by the Sessions Judge of Gorakhpur with a view to the quashing of a commitment made to his court by a Magistrate of the first class.

The parties were not represented.

The facts appear sufficiently from the following referring order :—

“ Bindeshri Goshain, aged 25, acting constable, and Bindeshri Ahir, aged 20, chaukidar, have been committed by Qazi Muhammad Mustafa, Deputy Magistrate of the first class, to this court for trial on a charge that they released Balraj Bhat, who had been made over to their custody on a charge of house-trespass in

* Criminal Reference No. 116 of 1919.

(1) (1890) L. L.²R., 19 All., 109.