

REVISIONAL CRIMINAL.*Before Mr. Justice Moti Sagar.*

ABDUL—Petitioner

versus

GHULAM MUHAMMAD—Respondent.

Criminal Revision No. 798 of 1923.

Criminal Procedure Code, Act V of 1898, section 517—order as to disposal of property regarding which an offence has been committed—when to be made.

Held that under section 517 of the Code of Criminal Procedure an order for the disposal of property regarding which an offence has been committed can only be made upon the conclusion of an inquiry or a trial before any Criminal Court and not on the application of a person subsequently made by him to the Court after the conclusion of the trial. The applicant has his remedy by means of a civil suit.

Application for revision of the order of Lt.-Col. J. Frizelle, Sessions Judge, Sialkot, dated the 14th November 1922, affirming that of Sardar Balwant Singh Garewal, Magistrate, 1st Class, Sialkot, dated the 29th August 1922, directing delivery of the bullock in question to Ghulam Muhammad, complainant.

IMAM DIN, for Petitioner.

BIHARI LAL, for Respondent.

MOTI SAGAR J.—The orders of the Courts below in this case are clearly illegal and must be set aside. The facts are briefly these:—A bullock belonging to one Ghulam Muhammad went astray, and it was subsequently traced to the possession of the present petitioner Abdul. A report was made to the Police, and Abdul was consequently challaned under Section 411 of the Indian Penal Code for receiving stolen property knowing it to be stolen property. Abdul's defence was that he had purchased the bullock in good faith from one Lal Din for Rs. 160 and that he did not know that it was stolen property. The Court found that this was so and acquitted Abdul of the offence with which he was charged. With regard to the ownership of the bullock, however, the Court did not pass any orders and

held that as it had been recovered from the possession of the accused who had honestly acquired possession thereof, it should continue to remain in his possession. The accused was accordingly called upon to furnish security in the sum of Rs. 400 in respect of the bullock, and he was ordered to keep possession thereof. Subsequently Lal Din from whom the bullock was alleged to have been purchased by Abdul was also challaned under section 414 of the Indian Penal Code, but acquitted. Then an application was made to Mr. Balwant Singh, Magistrate, who had tried the case of Lal Din, that the bullock belonged to the complainant Ghulam Muhammad and that Abdul should be called upon to deliver possession of the same to him. The Magistrate held that the bullock belonged to the complainant, that it had been criminally misappropriated and then sold to Abdul by Lal Din or by some other person who was responsible for its criminal misappropriation. Possession of the bullock was accordingly ordered to be made over to Ghulam Muhammad, complainant. An application for revision of this order was filed in the Court of the Sessions Judge but dismissed.

It appears to me that the learned Sessions Judge has entirely overlooked the provisions of section 517 of the Code of Criminal Procedure under which an order for the disposal of the property regarding which an offence has been committed can only be made upon the conclusion of an inquiry or a trial before any Criminal Court, and not on the application of a person subsequently made by him to the Court after the conclusion of the trial. In the present case no orders having been passed by the Court in respect of the disposal of the bullock on the conclusion of the trial of Abdul, the Court had no jurisdiction to pass orders at any subsequent time directing delivery of property to the complainant. The complainant certainly has his remedy by means of a civil suit, but till such suit is instituted and decided the bullock must remain in possession of the petitioner.

I accept the application for revision and set aside the orders of the Courts below directing delivery of the bullock to the complainant, Ghulam Muhammad.

A. N. C.

Revision accepted.

1923

ABDUL

v.

GHULAM
MUHAMMAD.