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and purposes an accomplice of the murderer and consider that it would be unsafe to rely upon her uncorroborated evidence against the appellant.

The only other evidence that remains is the production of the bloodstained *kurta* by the appellant. There is no evidence to show how much blood was on this garment, and the presence of blood upon a zamindar's clothing is not in itself a very important piece of evidence.

Under the circumstances I consider that this appeal should be accepted and the conviction and the sentence being set aside Bahawala should be acquitted.

FFORDE J.—I agree.

A. R.

Appeal accepted.

REVISIONAL CRIMINAL.

Before Mr. Justice Harrison.

LABH SINGH—Petitioner,

versus

NARINJAN DAS—Respondent.

Criminal Revision No. 842 of 1924.

Election offences—complaint under rule 5 (4) of Punjab Electoral Rules that a return of election expenses is false—whether Magistrate can hold an inquiry without a complaint sanctioned by Government as laid down in Criminal Procedure Code, Act V of 1898, section 196, as amended by Act XXXIX of 1920, section 3.

N. D., the respondent, presented a complaint to the District Magistrate asking him to hold a judicial inquiry under rule 5 (4) of the Punjab Electoral Rules as to whether L. S. had lodged a false return of election expenses. He asked the District Magistrate to hold that L. S. had incurred the penalties prescribed in that rule. The complaint was sent to a

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Magistrate, 1st Class, for disposal. L. S. objected to the jurisdiction of the Court, but the Magistrate held that he had jurisdiction to hear the complaint, and to give a judicial finding as to the falsity of the return of election expenses. An application for revision was presented to the Sessions Judge and dismissed, and thereupon L. S. moved the High Court.

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Held, that in view of the provisions of section 196, Criminal Procedure Code, as amended by Act XXXIX of 1920, the Magistrate had no jurisdiction to entertain a complaint of an election offence unless it was made by order of, or under authority from, the Governor-General in Council, the Local Government, etc. Rule 5 (4) of the Punjab Electoral Rules does not create any jurisdiction, civil or criminal, apart from that described above. The Magistrate had therefore no jurisdiction to inquire, and come to a judicial finding, as to the falsity of the return of the election expenses.

Application for revision of the order of Khan Bahadur Munshi Rahim Bakhsh, Sessions Judge, Sialkot, dated the 4th June 1924, affirming that of Sardar Balwant Singh, Magistrate, 1st Class, Sialkot, dated the 8th May 1924, holding that the Magistrate at Sialkot has jurisdiction to entertain the application.

GOKAL CHAND NARANG, for Petitioner.

CARDEN NOAD, Assistant Legal Remembrancer,
 for Respondent.

JUDGMENT.

HARRISON J.—*Dewan* Narinjan Das describing himself as a complainant moved the District Magistrate of Sialkot to hold a judicial inquiry under rule 5 (4) of the Punjab Electoral Rules as to whether Mr. Labh Singh, a rival candidate at an election, had lodged a false return of his election expenses. He invited him to hold as a result of that inquiry that Mr. Labh Singh had incurred the penal-

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ties prescribed in that rule and was not eligible for election for five years. The complaint was sent to *Sardar* Balwant Singh Garewal for disposal. It was contended by the other side that the Magistrate had no jurisdiction. Two preliminary issues were framed :—the Magistrate electing to follow the procedure of a Civil Court—

(1) Has this Court no jurisdiction unless it is empowered to hear the petition by the Local Government?

(2) Have the Courts at Sialkot no jurisdiction to entertain this petition?

In a brief order dated the 8th May 1924 the Magistrate held that the meaning of the rule was clear and that he was empowered to give a judicial finding as regards the falsity of the return. To this somewhat bald assertion he added no sort of explanation of how he (the Magistrate) came to function, and how he came to be seized with the petition requiring him to carry out the inquiry. An application for revision was presented to the Sessions Judge, who seems to have been influenced by the fact that the Commissioners, who had inquired into an election petition arising out of this election, had remarked that the petitioner could have this matter of the election expenses decided by a Magistrate, without explaining how he was to set about it. The Sessions Judge came to no conclusion himself one way or the other, and refused to take any action because he could not make up his mind as to whether the view taken by the Magistrate was right or wrong.

Now, the law regarding malpractices in connection with elections is contained in Act XXXIX of 1920 whereby the Indian Penal Code was amended by the addition of section 171 (A) to (I). By a subsequent

amendment of section 196 of the Code of Criminal Procedure it was laid down that no proceedings regarding these new offences could be launched without a complaint by order of, or under authority from, the Governor-General in Council, or the Local Government, or some officer empowered by the Governor-General in Council in this behalf. No such complaint has been made, and it is therefore clear that under the Code of Criminal Procedure the Magistrate had no jurisdiction whatever.

The question remains whether the rule on which the Magistrate relies creates any jurisdiction, civil or criminal, separate and apart from that described above. This rule says that, if a return of election expenses is not lodged in the manner prescribed, or is found either by Commissioners holding an inquiry into the election, or by a Magistrate in a judicial proceeding, to be false in any material particular, certain consequences shall follow. The appointment of Commissioners and the method in which they shall perform their duties from the subject matter of clear and comprehensive rules made by the Governor-General in Council under the Government of India Act. A finding by such Commissioners is placed on the same footing as that of a Magistrate functioning as such; but the rules do not provide for a Magistrate holding an inquiry on the same lines as the Commissioners. The contention of the respondent and the view taken by the Magistrate is that the words "in a judicial proceeding" in some manner override or amplify the clear provisions of section 196 of the Code of Criminal Procedure, and empower him to take cognizance without a proper complaint, or in other words that the reference in the rule to a "judicial proceeding" creates jurisdiction, and further that the jurisdiction so created

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in the Magistrate is that of a Civil Court or rather is to be exercised in accordance with the Code of Civil Procedure. I can find no possible authority for this view and the respondent has been unable to show me any. If in a judicial proceeding regularly and properly conducted a finding is given by a duly authorized Magistrate, that finding carries certain consequences. This is not tantamount to saying that the safeguard wisely introduced by section 196 is to be considered as a dead letter and that any Magistrate on a complaint or report being placed before him is authorized and competent to hold an inquiry and give a finding, involving the same consequences as if he had acted in accordance with the law.

I hold that the action taken by the Magistrate was wholly *ultra vires* and I quash the proceedings.

A. R.

Revision accepted.
