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IN RE LAKSHMAN GOVIND NIRGUDE.

made under the authority of some law requiring the police to execute the warrant or empowering them to seize property without warrant. In both cases the seizure must forthwith be reported to the proper Magistrate, who can then, according to my view, proceed in the manner prescribed by the section. It is obvious that when property is seized under a Magistrate's warrant, he must proceed to make inquiry to enable him to dispose of it. Otherwise grave wrong would result.

Here, on an information, property has been seized and kept apparently without any inquiry for nearly five months, though Lakshman has throughout been insisting that it is his own. As no one can say when Pandurang may return, the detention may last for an indefinite time. Whether the inquiry is made in the exercise of inherent powers or, as I think, under the authority given by section 523, I entirely agree with Mr. Justice Candy in holding that immediate inquiry should be made in order to ascertain whether there is sufficient ground for believing that the property belongs to the complainant and has been the subject of criminal breach of trust or dishonest misappropriation, or should be returned to Lakshman from whose possession it has been taken, on such terms as the Magistrate may prescribe. Magistrates must take care that the proceedings in their Courts are conducted with such reasonable expedition as will prevent the parties from being improperly harassed by undue delay.

CRIMINAL REVISION.

Before Mr. Justice Fulton and Mr. Justice Crowe.

1902.
April 10.

EMPEROR *v.* LAKSHMAN RAGHUNATH.*

Penal Code (Act XLV of 1860), sections 441, 448—Criminal trespass—House-trespass—Entry into house—Intent to annoy.

The accused No. 1, who held a decree against a certain judgment-debtor, went with his son, accused No. 2, and a Civil Court bailiff to execute a warrant. Finding the door of the judgment-debtor's house shut, they entered his compound by passing through the complainant's house without his consent and notwithstanding his protest.

* Criminal Application for Revision No. 29 of 1902.

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Held, that the accused's act amounted to criminal trespass, for when they trespassed on the complainant's house notwithstanding his protest, they must, as reasonable men, have known that they would annoy him.

There is no presumption that a person intends what is merely a possible result of his action or a result which though reasonably certain is not known to him to be so; but it must be presumed that when a man voluntarily does an act, knowing at the time that in the natural course of events a certain result will follow, he intends to bring about that result.

Queen v. *Hicklin*,(1) *Queen* v. *Martin*,(2) *Reg.* v. *Lobett*,(3) *Freeman* v. *Pope*,(4) *Ex parte Mercer*, *In re Wise*,(5) referred to.

APPLICATION under section 435 of the Criminal Procedure Code (Act V of 1898) to set aside a conviction and sentence for house trespass recorded by Ráo Sáheb L. N. Ransing, First Class Magistrate of Poona City.

Lakshman (accused No. 1) obtained a decree against one Tulajirao Raje, and in execution took out a warrant of arrest against him. Early in the morning of the 17th September, 1901, accompanied by his son (accused No. 2) and some servants (Nos. 3 to 7) and a bailiff, he went to Tulajirao's house to execute the warrant. Finding the door of the house shut, they entered his compound by passing through the complainant's house without his consent and in spite of his protest.

The complainant thereupon filed a complaint against all the accused, and the Magistrate found accused Nos. 1 and 2 guilty of criminal trespass (see section 441, Indian Penal Code), and sentenced each of them to pay a fine of Rs. 10.

The accused Nos. 1 and 2 thereupon applied to the High Court under its criminal revisional jurisdiction to set aside the conviction.

N. M. Samarth for the accused:—The entry into complainant's house at most amounted to civil trespass. Section 441 contemplates the entry as a means to another act and regards the intention with which it is made in relation to that act. In the present case the accused's intent was not to annoy the complainant: his object was merely to effect an entry into the house of the

(1) (1868) L. R. 3 Q. B. 375.
(2) (1881) 8 Q. B. D. 58.
(3) (1889) 9 C. & P. 466.
(4) (1870) L. R. 5 Ch. 538.
(5) (1886) 17 Q. B. D. 290.

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complainant's neighbour. See *In the matter of Jotharam Davay*[1]; *Queen-Empress* v. *Rayapadayachi*[2]; *Chunder Narain* v. *Farguharson*[3]; *Reg.* v. *Vujeer*[4]; *Imperatrix* v. *Ganpat Ramshet*.[5]

G. S. Dandavate for the complainant:—Here it is found as a fact that the entry was with intent to annoy, and the complainant was in fact annoyed, for he at once repaired to the police station and lodged a complaint. As the entry was in spite of complainant's protest, the accused must be presumed to have intended the annoyance caused by his entry.

FULTON, J.:—This is an application to set aside a conviction for house trespass on the ground that the acts proved do not constitute that offence.

The Magistrate has found that accused No. 1, who held a decree against a certain judgment-debtor, went with his son, accused No. 2, and a Civil Court bailiff to execute a warrant. Finding the door of the judgment-debtor's house shut, they entered his compound by passing through the complainant's house without his consent and notwithstanding his protest. On these facts the Magistrate has held that the act of the accused amounted to criminal trespass with intent to annoy the complainant.

In support of the application Mr. Samarth has contended that there was no intent to annoy, and that though the act may have constituted a trespass which might form the basis of a civil action, it did not amount to criminal trespass as defined in section 441 of the Indian Penal Code. He relied on the decision of the Madras High Court in *Queen-Empress* v. *Rayapadayachi*,[2] and pointed out that, to constitute the offence, there must be an intent to annoy and not mere knowledge that the act was likely to annoy.

Now, it cannot be disputed that mere knowledge of the possibility of annoyance resulting from an act of trespass is not sufficient to bring the case within the definition, but, at the same time, it must be remembered that the word "intent" cannot be read as if it were identical with "wish" or "desire." There

(1) (1878) 2 Mad. 30.
(2) (1896) 19 Mad. 240.
(3) (1879) 4 Cal. 837.
(4) (1863) Bombay Unreported Criminal Cases, p. 10.
(5) (1888) Cr. Rul. No. 43.

may be no wish to annoy, but if annoyance is the natural consequence of the act, and if it is known to the person who does the act that such is the natural consequence, then there is an intent to annoy. Most acts in the common course of natural events and human conduct lead to a series of results, and if these results are foreseen by the person doing the acts they cannot be said to be caused unintentionally. The ultimate object may be something different, but the person intends all the intermediate results which he knows will happen in the natural course of events, even though he may regret that they should happen. When it is uncertain whether a particular result will follow (as in the Madras case in which the accused hoped to keep his conduct secret), there may be no intent to cause that result even though it may be known that the result is likely. But it seems impossible to contend, when an act is done with a knowledge amounting to practical certainty that a result will follow, that it is not intended to cause that result. In the case of *Queen* v. *Hicklin*[1] Mr. Justice Blackburn said: "I take the rule of law to be as stated by Lord Ellenborough in *Rex* v. *Dixon*[2] in the shortest and clearest manner: 'It is a universal principle that when a man is charged with doing an act (that is, a wrongful act without any legal justification) of which the probable consequence may be highly injurious, the intention is an inference of law resulting from the doing the act.' And although the appellant may have had another object in view, he must be taken to have intended that which is the natural consequence of the act." Reference may also be made to similar remarks of Lord Coleridge, C.J., in *Queen* v. *Martin*,[3] and to *Reg.* v. *Lobett*[4] in which Littledale, J., said: "With respect to the intent of the defendant, a man must be taken to intend the natural consequences of what he has done." Again in *Freeman* v. *Pope*,[5] Lord Hatherley, L.C., said: "It would never be left to a jury to find *simpliciter* whether the *settlor* intended to defeat, hinder or delay his creditors without a direction from the Judge that, if the necessary effect of the instrument was to defeat, hinder or delay the creditors, that necessary effect was to be considered as evidencing an

(1) (1868) L. R. 3 Q. B. 375.
(2) 3 M. & S. at p. 15.
(3) (1881) 8 Q. B. D. 58.
(4) (1839) 9 C. & P. 462 at p. 466.
(5) (1870) L. R. 5 Ch. 538.

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intention to do so." This decision was referred to in *Ex parte Mercer, in re Wise*(1) the effect of which was to show that the presumption is not conclusive, but may be rebutted. But the result of these authorities seems to me to be that, although there is no presumption that a person intends what is merely a possible result of his action or a result which though reasonably certain is not known to him to be so, still it must be presumed that when a man voluntarily does an act, knowing at the time that in the natural course of events a certain result will follow, he intends to bring about that result.

In the present case, when the applicants trespassed on the complainant's house notwithstanding his protest, they must, as reasonable men, have known that they would annoy him. They were, therefore, in our opinion, rightly convicted of house trespass.

We dismiss the application.

Application dismissed.

(1) (1886) 17 Q. B. D. 290.

ORIGINAL CIVIL.

Before Mr. Justice Fulton and Mr. Justice Starling.

1902. *April* 11 *and* 15

HAJI AJAM GOOLAM HOOSEIN (PLAINTIFF) *v.* BOMBAY AND PERSIA STEAM NAVIGATION COMPANY (DEFENDANTS).*

Bill of lading—Condition requiring notice of claim within prescribed period—Waiver of condition—Limitation—Acknowledgment—Limitation Act (XV of 1877), section 19, schedule II, article 31—Carrier.

Plaintiff delivered 200 casks of oil to the defendants for carriage per S.S. *Moshtari* from Bombay to Jeddah. The bill of lading stated that the goods were shipped subject to the condition that any claim for short delivery, &c., should be made in writing in Bombay within two months of date of steamer's arrival at port of consignment. The S.S. *Moshtari* left Bombay on the 13th June, 1900, and arrived at Jeddah on the 11th July, 1900, and 35 cases of the plaintiff's oil were short delivered. On the 18th October, 1900, the defendants' agents at Jeddah issued a shortage certificate to the plaintiff, and on its receipt the plaintiff, on the 15th November, 1900, made a claim in writing on the defendants in Bombay for the 35 cases short delivered. In July, 1901, the plaintiff called on the defendants and stated that the cases had

* Small Cause Court Reference o. 1122 of 1902.