

absence of proof is due to the fact of the acquittal by the Magistrate. In the circumstances, it certainly would not be worth while calling for evidence on this point. We, therefore, determine the amount of punishment irrespective of this allegation. We fine him a sum of Rs. 250, and in default he will undergo three months' rigorous imprisonment. We do not propose to direct confiscation of the conveyance, even if a boat is a "conveyance," as to which we express no opinion.

E. H. M.

*Appeal allowed.*

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## CRIMINAL REVISION.

*Before Mr. Justice Cox and Mr. Justice Ryves.*

FAIZ ALI v. EMPEROR.\*

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*Emigration—Unlawful recruitment—Assam Labour and Emigration Act (VI of 1901) s. 164.—“Emigrate,” meaning of—Inducement to go from a place in British India to Fiji—Subsequent inducement at another place to proceed to Sylhet—Locus delicti—Jurisdiction of Criminal Court—Criminal Procedure Code (Act V of 1898) s. 177.*

A recruiter, who induces a person at Cawnpore to go to Fiji, but on the way takes him to a cooly depôt at Arrah and induces him to proceed to Sylhet, in contravention of the Assam Labour and Emigration Act, commits no offence under s. 164 of Act VI of 1901 at Cawnpore, but only at Arrah, and a Magistrate of the latter place has jurisdiction to try such offence.

THE petitioner was tried by the District Magistrate of Shahabad and convicted under section 164 of the Assam Labour and Emigration Act, on the 26th April 1909, and sentenced to a fine of Rs. 500, and in default to three months' rigorous imprisonment. The sentence was reduced on appeal. It appeared that he induced a cooly, named Lal Bahadur, at Cawnpore, to go to Fiji, which he represented to be near Calcutta. Lal Bahadur and a number of others were brought down from Cawnpore and were made to alight at Arrah and taken to a cooly depôt. Whilst there they learned that they were to be sent to

\* Criminal Revision No. 819 of 1909, against the order of J. Johnston, Officiating District Magistrate, dated April 26, 1909.

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Sylhet. They were entrained and put in charge of a *sardar* for despatch to Sylhet, but on the journey they met some military bandsmen, who advised them not to go to Sylhet. Accordingly at Bankipore they got down forcibly and informed the police, who took them to a Magistrate. They were sent back to Arrah and, in consequence of certain statements made by them, the petitioner was put on his trial.

*Babu Dasharathi Sanyal* (with him *Babu Abani Bhushan Mukerjee*), for the petitioner.

*Mr. Orr* (Deputy Legal Remembrancer), for the Crown.

COXE AND RYVES JJ. The petitioner in this case has been convicted under section 164 of the Assam Labour and Emigration Act, 1901, for inducing one Lal Bahadur Kurmi to emigrate from Arrah, in contravention of the notification published under the Act, prohibiting all persons from recruiting, inducing, engaging or assisting any persons to emigrate from any district in Bengal. The petitioner obtained this Rule from this Court on the District Magistrate to show cause why the conviction and sentence of the petitioner should not be set aside on the ground that the facts found did not constitute the offence of which the petitioner had been convicted.

It appears that the accused induced Lal Bahadur to leave Cawnpore in order to go to Fiji to work. On the way they stopped at Arrah, and then the accused told Lal Bahadur that he would have to go to Sylhet, and placed him in a train in charge of a *sardar* for the purpose of ultimately going to that place.

It has been argued on behalf of the petitioner that the offence, if any, was committed and completed in Cawnpore, and that consequently the authorities in Arrah had no jurisdiction to deal with the matter. We think that there would be a good deal of force in this contention if, as a matter of fact, Lal Bahadur had been induced to leave Cawnpore in order to go to Sylhet. It seems to us that if the man had originally been induced to go to Sylhet, to labour there for hire, it would be difficult to hold that there was a fresh emigration at every

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place at which he might stop on his journey. But it seems clear that Lal Bahadur was not induced to leave Cawnpore in order to go to labour at Sylhet, but in order to go to Fiji, and, therefore, no offence under section 164 of the Act was committed at Cawnpore. That section provides that "whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment," and the word "emigrate" is defined as meaning the departure of a native of India for the purpose of labouring for hire in a labour district.

It is clear, therefore, that Lal Bahadur did not emigrate within the meaning of this Act from Cawnpore, and was not induced to emigrate therefrom. It was not until he arrived at Arrah that any attempt was made to induce him to depart from the place where he then was, for the purpose of labouring for hire in Sylhet. There is no reason why persons, who are actually on a journey from one place to another, should not be protected from unlawful recruitment just as well as persons living in their villages. We think that the facts found in the case do constitute the offence charged. The Rule is accordingly discharged.

*Rule discharged.*