

1961

Purushottamdas

Dalmia

v.

State of
West BengalRaghubar
Dayal J.

addressed to the appellant's firm is not proved to have returned to the dead-letter office or to the Chief Controller of Imports and Exports. If it was delivered by the postman at the Shop No. 16, ordinary courtesy requires that that shop would have sent over the letter to the neighbouring Shop No. 19. The appellant's conduct in not taking any action to find out what was the result of his representation to the Chief Controller of Imports and Exports is consistent with the view that he did receive the reply of the Chief Controller of Imports and Exports. In the circumstances, an expression of opinion that the letter would have reached the appellant cannot be said to amount to a misdirection.

The learned Judge is perfectly justified to ask the jury to take into consideration the probabilities of a case, where no definite evidence, in connection with an incidental matter, exists.

We do not consider that the contentions raised do amount to misdirections.

In view of the above, we see no force in this appeal and accordingly dismiss it.

Appeal dismissed.

1961

April 19.

L. N. MUKHERJEE

v.

THE STATE OF MADRAS

(K. SUBBA RAO and RAGHUBAR DAYAL, JJ.)

Criminal Trial—Jurisdiction—Court having jurisdiction to try offences committed in pursuance of conspiracy, if can try the offence of criminal conspiracy—Code of Criminal Procedure, 1898 (V of 1898), ss. 177, 239—Indian Penal Code, 1860 (Act XLV of 1860), ss. 120-B, 420, 463.

The appellant was committed to the Court of Session at Madras for trial under s. 120-B read with s. 420 of the Indian Penal Code and for committing the offence of forgery in pursuance of that conspiracy. The Criminal conspiracy was alleged to have been committed at Calcutta, while the other offences in

pursuance thereof were committed at Madras. It was urged on behalf of the appellant that the Madras Court had no jurisdiction to try the offence of criminal conspiracy.

Held, that the court having the jurisdiction to try the offences committed in pursuance of the conspiracy, has also the jurisdiction to try the offence of criminal conspiracy, even though it was committed outside its territorial jurisdiction.

Purushottamdas Dalmia v. State of West Bengal, [1962] 2 S.C.R. 101, applied.

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 119 of 1960.

Appeal by special leave from the judgment and order dated April 14, 1960, of the Madras High Court in Cr. Misc. Petition No. 246 of 1960.

D. N. Mukherjee, for the appellant.

M. S. K. Sastri and T. M. Sen, for respondent.

1961. April 19. The Judgment of the Court was delivered by

RAGHUBAR DAYAL, J.—This appeal, by special leave, is against the order of the Madras High Court dismissing the application for quashing the commitment of the case against the appellant, to the Court of Session, for trial of offences of criminal conspiracy to cheat under s. 120-B read with s. 420, Indian Penal Code, and for the offence of forgery committed in pursuance of that conspiracy. The criminal conspiracy is alleged to have been committed at Calcutta. The other offences in pursuance of the conspiracy are alleged to have been committed within the jurisdiction of the Court of Session at Madras. The quashing of the commitment was sought on the ground that the Courts at Madras had no jurisdiction to try the offence of conspiracy. The High Court did not accept the contention and dismissed the application.

The sole question for consideration in this appeal is whether the offence of conspiracy alleged to have been committed at Calcutta can be tried by the Court of Session at Madras.

We have held this day, in *Purushottamdas Dalmia v. The State of West Bengal* (1) that the Court having

(1) [1962] 2 S.C.R. 101.

1961

L. N. Mukherjee
v.
State of Madras

Raghubar
Dayal J.

1961

L. N. Mukherjee
v.
State of Madras

Raghubar
Dayal J.

jurisdiction to try the offence of criminal conspiracy can also try offences committed in pursuance of that conspiracy even if those offences were committed outside the jurisdiction of that Court, as the provisions of s. 239, Criminal Procedure Code, are not controlled by the provisions of s. 177, Criminal Procedure Code, which do not create an absolute prohibition against the trial of offences by a Court other than the one within whose jurisdiction the offence is committed. On a parity of reasoning, the Court having jurisdiction to try the offences committed in pursuance of the conspiracy, can try the offence of conspiracy even if it was committed outside its jurisdiction. We therefore hold that the order under appeal is correct and, accordingly, dismiss this appeal.

Appeal dismissed.

1961

April 20.

JAGANNATH AND OTHERS

v.

UNION OF INDIA

(P. B. GAJENDRAGADKAR, A. K. SARKAR,
K. N. WANCHOO, K. C. DAS GUPTA, and
N. RAJAGOPALA AYYANGAR JJ.)

Excise Duty—Tobacco—Different rates for whole leaf and broken leaf—If discriminatory—Central Excises and Salt Act, 1944 (I of 1944), First Schedule Entry 4(I) Items 5 and 6—Constitution of India, Art. 14.

Item 5 of entry 4(I) of the First Schedule to the Central Excise and Salt Act, 1944, imposes an excise duty of Rs. 1-10 nP. per kilogram on tobacco other than flue cured and not actually used for the manufacture of cigarettes, smoking mixtures for pipes and cigarettes or biris in the whole leaf form. Item 6 imposes a duty of Rs. 2-20 nP. per kilogram on tobacco in the broken leaf form. The petitioners who dealt in tobacco in the broken leaf form contended that their tobacco could not be distinguished on any rational basis from the whole leaf form in Item 5 and the imposition of a double tariff on their tobacco was invalid as it was based on unconstitutional discrimination, the tariff being on the basis of use to which the tobacco was put.