

addressed to the appellant's firm is not proved to have returned to the, dead-letter omce or to the Chief Con.
Purushouamdas troller of Imports and Exports. If it was delivered by

Imia

v.

State of

West

Bengal

Ragkubar

Doyal J.

the postman bt the Shop No. 16, ordinary courtesy requires that that shop would have sent over the letter to the neighbouring Shop No. 19. The appellunt'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 t.he repl.v of the Chief Controller of Imports and Exports. In the circum. stances, an expression of opinion that the letter would have reached the appellant cannot be said to amount to a misdirection.

Tho 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 conBider 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.

L. N. MUKHERJEF,

C.

April 19.

THE STATE OF MADRAS

(K. SUBBA RAO and RAGHCBAR DA YAL, JJ.)

SUPREME COURT REPORTS

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 X IV of 1860), ss. 120-8, 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

2 S.C.R. 117

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. L. N. Mukherjee

Held, that the court having the jurisdiction to try the State of Madras 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 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 *Dayal* 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

SUPREME COURT REPORTS

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 [he application.

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

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

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

96r jurisdiction to try the offence of criminal conspiracy can also try offences committed in pursuance of that L. N. Mukherjee, V. conspiracy even if those offences were committed outside the jurisdiction of that Court, 88 the provisions of

8. 239, Criminal Procedure Code, are not controlled by Raghubar the provisions of s. 177, Criminal Procedure Code, which do not create an absolute prohibition against the trial of offences by 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.

SUPREME COURT REPORTS

Appeal dismissed.

JAGANNATH AND OTHERS

April 20.

UNION OF INDIA

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

Excise Duty—Tobacco— Different rates for whole leaf and broken leaf—] discriminatory— Central Excises and Salt Act, 1944 (I of 1944), First Schedule Entry 4(1) Items 5 and 6— Constitution of India, Art. 14.

Item 5 of entry 4(1) 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.