

Cl. Rev. Appl. 192/1935



*Chief Justice* 99  
In His Majesty's High Court of Judicature,  
Appellate Side, Bombay

CRIMINAL JURISDICTION

~~—Appeal—~~  
Application for Revision No. 192 of 193 5.  
~~—Reference—~~  
~~—Confirmation Case—~~

IMPERATOR vs. Gulabrao Laxmanrao Chandgude.

Offence Extortion, cheating and Breach of Peace.

Sentence To execute a bond in the sum of Rs 2000/- with one surety for the like amount to be of good behaviour for one year under section 118, Cri.P.C.

Date of Sentence 9th January 1935.

Court M.N. Mehta, Esquire,  
Special Magistrate First Class, Cantonment;  
Poona.

Order in Appeal Conviction and sentence confirmed and appeal dismissed.

Date of Order in Appeal 27th March 1935.

Passed by D.D. Nanavati, Esquire;  
Sessions Judge, Poona.

Previous Order of the High Court (Coram: Broomfield and Macklin, JJ) Rule.

Dated 24-6-1935.



**CRIMINAL DEPARTMENT**

*B*  
Gulabao Lakmanrao

Chandrade (or accused),  
counsel for Jayakar

(by Advocate Mr.

V. Dhingaye

dated the 16-5-1935

Appeal against the conviction recorded  
Apply for revision of

against and the sentence passed upon him

by the Special Magistrate, 2<sup>nd</sup> class,

Poma Cantonment

on the 9<sup>th</sup> January 1935 for

the offences of extortion, cheating &  
breach of peace, the Sessions Judge,  
Poma having confirmed the  
conviction & sentence & dismissed his  
appeal on 27<sup>th</sup> March 1935.

Criminal Appeal... No. \_\_\_\_\_ of 193

Application for Revision No. 192 of 1935

ORDER BY THE COURT.

(Coram:—

Writ No. 1448

Notice No. 1447

Notice in Ver. also

Received on the

Registered on the

Brought on in Court on the

26-6-35-

17/5  
19/5

I would like to please  
you on the question of jurisdiction  
in other respects than  
to see to revision

41 Mand. 246/Asen

The last point is not  
referred to by S. J.  
was it argued before  
him?

Rule

20/6

Asen



In His Majesty's High Court of Judicature  
Appellate Side, Bombay

APPLICATION FOR REVISION No. 192 of 1935

No. 1923 of 1935 REVIEW No. OF 1935

The 1st day of August 1935



To

~~THE SESSIONS JUDGE,~~  
THE *Special* MAGISTRATE,

*First Class, Cantonment,*  
*Puna*

Upon reading the WRIT issued by this COURT on the 26th day of

*June* 1935, No. 1448 and the RETURN No. *SR. 119* thereunto made by

*S. D. Nanavati*

Name *Gulab Rao Lannarao Chandghuse* Esq., *Sessions Judge* of *Puna*  
*District Magistrate*

*Charges: Information under S. 110(d) & (e)*  
*Conviction* *Cri. Pr. Code that accused was*  
*habitually committing offenses of*  
*Extortion, Cheating and breach of*  
*the peace.*

on the

*9th* day of *July* 1935,

in the case marginally noted and

upon reading the RECORD and

PROCEEDINGS in the case,

Sentence *To execute a bond in the sum of*  
*Rs. 2000 with one surety in the like*  
*amount to be of good behavior for*  
*one year under S. 118, Cri. Pr. Code.*

and hearing *Counsel Dr. Ambedkar*  
*with Advocate Mr. D. D. Limaye*  
for the ~~accused and~~ *Petitioner*  
and *S. B. P. B. Shingne,*  
*Government Pleader*

Date of Sentence *9th January 1935.*

Original Court *M. N. Mehta Esq.,*  
*Special Magistrate, First Class,*  
*Cantonment, Puna.*

Order in Appeal, if any *Conviction & Sentence Confirmed*  
*and appeal dismissed.*

Passed by *D. D. Nanavati Esq.,*  
*Sessions Judge, Puna.*

for the Crown, the High Court

passed the following Order on the

*1st* day of *August* 1935:

Date of order in appeal *27th March 1935.*

*For the reasons stated in the accompany judgment, the*  
*Court dismisses the application.*

By the Court,

*[Signature]*  
*[Signature]* Deputy Registrar.  
*[Signature]* Sealer.

The *7* day of *August* 1935

Through the *Sessions Judge* District Magistrate of *Puna*

Despd. *718/1935*



*copy*  
*27/8/35*  
*by*  
*copy*

*will follow*



NOTE I.—The within-mentioned order (and the judgment accompanying it, if any) should be communicated to the Court which originally tried the case after proper execution of the order (*vide* Circular No. 1667 of 15th July 1910).

NOTE II.—When the Writ is addressed to a First Class Magistrate who disposed of the accused's appeal, he should communicate the order noted within (and the judgment accompanying it, if any) after proper execution thereof to the Magistrate who originally tried the case (*vide* Circular No. 1667 of 15th July 1910).

NOTE III.—Returns should be made to all Writs issuing from the High Court, if possible within a fortnight, in the form of an endorsement on the Writ certifying its execution, or the reasons which may have prevented its execution (*vide* Circular No. 100 of the High Court Criminal Circular Order Book).

No. S.R.1/37.

Poona Sessions Court.

20 AUG 1935

19th August 1935.

The Sessions Judge, Poona, hereby certifies that the order herein contained is communicated to the Special Magistrate, First Class, Cantonment Poona, and that he has taken a note of the same.



*[Handwritten signature]*

\* Sessions Judge, Poona.





Judgment recorded by the High Court in  
Criminal Application for Revision No.192 of 1935 in  
the case of Imp. vs. Gulabrao Laxmanrao Chandgude.

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Counsel Dr. Ambedkar with Mr. V. D. Limaye  
for the accused.

The Government Pleader for the Crown.

Coram:- Beaumont, C.J. & N.J. Wadia, J.

1st August 1935.

Oral Judgment per Beaumont, C.J.

This is a revision application asking us to review an order made against the applicant under section 118A of the Criminal Procedure Code directing him to execute a bond in the sum of Rs. 2,000/- with one surety for the like amount to be of good behaviour for one year.

The only point of law which arises in revision is as to the jurisdiction of the Magistrate who dealt with the matter. The case was originally on the file of the Subdivisional Magistrate, First Class, Eastern Division, Poona, and it was transferred from his file by the Additional District Magistrate, Poona, to the file of the Special Magistrate, First Class, Poona Cantonment. Now having regard to the provisions of sections 107 and 110 of the Criminal Procedure Code, in order to establish jurisdiction in the Magistrate to make an order, it must be shown that the village where the accused lives and where the act complained of has been committed (i.e. the village of Supe) is within the local jurisdiction of the Special Magistrate, First Class, Poona Cantonment. The village of Supe is admittedly not within the limits of the Poona Cantonment, but it is within the limits of the Poona District. The question whether the Magistrate of Poona Cantonment has jurisdiction or not in the whole of the



Poona

district depends on the construction of section 12 of the Criminal Procedure Code. Sub-section (1) of that section provides that the Local Government may appoint as many ~~a~~ persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns. And then it goes on: "the Local Government or the District Magistrate, subject to the control of the Local Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code." So that under that section the Local Government can appoint a Magistrate in a particular district, and then the Local Government or the District Magistrate, may carve up the district and define particular areas within which particular Magistrates are to exercise their functions. If the matter stood there, it might be suggested that, where the District Magistrate has made an order directing that a particular Magistrate is to exercise jurisdiction within a particular area, the jurisdiction of that Magistrate is confined to that area and does not in future extend to the rest of the district. But then comes sub-section (2) which says: "Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district." That seems to me to be a saving clause which prevents the mere carving up of the district into areas amongst Magistrates from having the effect of depriving Magistrates of jurisdiction in the whole district, unless the order defining the areas so provides. It is obvious to ~~my~~ my mind that the mere definition of areas cannot be taken as a provision excluding jurisdiction in the rest of the district, for if it did, sub-section(2) would be meaningless. I



I think the sub-section clearly requires some provision excluding jurisdiction in the rest of the district, which is either express or must be inferred by necessary implication.

Now in the present case, on the 15th October 1934 the Local Government appointed the Magistrate whose jurisdiction is at present in question, Khan Bahadur M.N.Mehta, to be an Honorary Magistrate in the Poona district, and conferred on him the magisterial powers therein mentioned, those powers being first class powers and additional powers (inter alia) under section 110, of the Criminal Procedure Code. So that there is no doubt that under that notification Khan Bahadur Mehta would have jurisdiction to deal with this case in the Poona District. The District Magistrate, Poona, by an order dated the 27th January 1935, defined the ~~words~~ <sup>areas</sup> in which certain Magistrates were to exercise jurisdiction and directed that Khan Bahadur Mehta was to deal with certain cases in Poona Cantonment. But there is nothing in that order of the District Magistrate which ~~either~~ <sup>either</sup> expressly or by necessary implication confines the jurisdiction of Khan Bahadur Mehta to the particular area in which he is directed to exercise jurisdiction. That being so, I think that, under sub-section(2) of section 12, Khan Bahadur Mehta continued to have jurisdiction in the whole of the Poona District, and that, with the consent of the District Magistrate, or the Additional District Magistrate, he was competent to try any case arising in the Poona District.

Dr.Ambedkar referred us to a case in 19 Allahabad Law Journal page 77 (Kunj Behari Lal vs Lanua). That is <sup>not</sup> an authorised report. But if the view of the Court in that case was that the mere act of a District Magistrate in carving up a district and allotting a



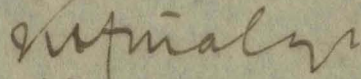
particular area to a particular Magistrate had the effect of restricting the jurisdiction of that Magistrate to that area and depriving him of jurisdiction over the rest of the district, I can only say, with great respect to the Court, that I do not agree with the decision. That, in my opinion, is not the proper construction of section 12 of the Code.

There is in my opinion no other ground on which we can interfere in revision, and therefore the application must be dismissed.

Per N.J.Wadia, J.

I agree.

By the Court,



Ag. Deputy Registrar.



Criminal Revision Application No.192 of 1935

G.C.P.—J 189—2000—8-29—P8  
G.R., J.D., No. 4398 dated 3-7-16

[Spl.—H.C. A.S. Civil 56

~~APPEAL~~ No.

~~OF~~ 19

~~FROM~~

~~ORIGINAL~~  
APPELLATE

~~DECREE~~

Date of decision. 1st August 1935

*For Approval and Signature.*

The Hon'ble the CHIEF Justice

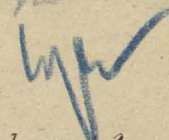
The Hon'ble Mr. Justice N.J.WADIA


*Whether Reporters of Local Papers may be allowed to see the judgment ?*

**To be referred to the Reporter or not ?**

*Whether their Lordships wish to see fair copy of the judgment ?*

98

*Wadia*  


*7*  
*B. G. R.*  




Criminal Revision Application No.192 of 1935.

-----  
Imperator vs. Gulabrao Laxmanrao Chandgude.

Counsel Dr. Ambedkar with Mr.V.D.Limaye for the Accused.

Diwan Bahadur P. B. Shingne, Government Pleader, for  
the Crown.

Coram: Beaumont C.J. and N.J.Wadia J

1st August 1935

Oral Judgment (Per Beaumont C.J.)

This is a revision application asking us to review an order made against the applicant under section 118 of the Criminal Procedure Code directing him to execute a bond in the sum of Rs.2,000/- with one surety for the like amount to be of good behaviour for one year.

The only point of law which arises in revision is as to the jurisdiction of the Magistrate who dealt with the matter. The case was originally on the file of the Subdivisional Magistrate, First Class, Eastern Division, Poona, and it was transferred from his file by the Additional District Magistrate, Poona, to the file of the Special Magistrate, First Class, Poona Cantonment. Now having regard to the provisions of



sections 107 and 110 of the Criminal Procedure Code,  
in order to ~~confer~~ <sup>is the</sup> jurisdiction ~~upon a~~ <sup>in the</sup> Magistrate  
to make an order, it must be shown that the village  
where the accused lives and where the act complained  
of has been committed (i.e. the village of Supe)  
is within the local jurisdiction of the Special  
Magistrate, First Class, Poona Cantonment. The  
village of Supe is admittedly not within the limits  
of the Poona Cantonment, but it is within the limits  
of the Poona District. The question whether the  
Magistrate of Poona Cantonment has jurisdiction  
or not <sup>is the rule of the Poona District</sup> depends on the construction of section 12  
of the Criminal Procedure Code. Sub-section (1)  
of that section provides that the Local Government  
may appoint as many persons as it thinks fit,  
besides the District Magistrate, to be Magistrates  
of the first, second or third class in any district  
outside the presidency-towns. And then it goes on:  
"the Local Government or the District Magistrate,  
"subject to the control of the Local Government,  
"may, from time to time, define local areas within  
"which such persons may exercise all or any of the



"powers with which they may respectively be invested  
"under this Code." So that under that section the  
Local Government can appoint a Magistrate in a parti-  
cular district, and then the Local Government or the  
District Magistrate, may carve up the district and define  
a particular area, within which particular Magistrates  
are to exercise their functions. <sup>And if the matter</sup>  
<sup>is left to the Magistrate, then, made in</sup>  
stood there, where the District Magistrate has ~~ordered~~  
directing that a particular Magistrate <sup>is</sup> ~~has~~ to exercise  
~~the~~ jurisdiction within a particular area, ~~it might no~~  
~~doubt be suggested that the jurisdiction of that Magis-~~  
<sup>is</sup> ~~trate was~~ confined to that area and <sup>does</sup> ~~did~~ not in future  
extend to the rest of the district. <sup>But</sup> ~~Then~~ comes  
sub-section (2) which says : "Except as otherwise  
"provided by such definition, the jurisdiction and  
"powers of such persons shall extend throughout such  
"district." That seems to me to be a saving clause  
which prevents the mere carving up of the district  
into areas amongst Magistrates <sup>from</sup> ~~and~~ having the effect  
of depriving Magistrates of ~~having~~ jurisdiction in the  
whole district unless the order defining the areas so  
provides. It is obvious to my mind that the mere



definition of ~~the~~ areas cannot be taken as a provision

excluding jurisdiction in the rest of the district,  
*for if it did,*

~~Otherwise~~ sub-section (2) would be meaningless. I

think the sub-section clearly <sup>requires</sup> means some provision  
*of jurisdiction in the rest of the district,*  
which is either expressed or must be inferred by

necessary implication. ~~In the order of the District~~  
Magistrate carving up the district into areas direct-  
ing that the jurisdiction of the Magistrates is to  
be confined to particular areas assigned to them,  
unless you confine them, the jurisdiction of the Magis-  
trates ~~over the whole district continues.~~

Now in the present case, on the 15th October

1934 the Local Government appointed the Magistrate

*Shree*  
~~of the~~ jurisdiction ~~which~~ is at present in question,

Khan Bahadur M. N. Mehta, to be an Honorary Magistrate  
*in the same district,*

and conferred on him the magisterial powers therein

mentioned, those powers being first class powers

*(with etc)*  
and additional powers ~~under sections 110, 190 and 260~~

of the Criminal Procedure Code. So that there is no

doubt that under that notification Khan Bahadur Mehta

would have jurisdiction to deal with this case in



the Poona District. The District Magistrate, Poona,

by an order dated the 27th January 1935, directed the ~~defined the cases in which certain Magistrates were~~  
*defined the cases in which certain Magistrates were*  
jurisdiction of Khan Bahadur Mehta and issued an order

~~regarding the jurisdiction of the several Honorary~~

~~Magistrates, and then his order goes on to provide~~

~~that Khan Bahadur Mehta is to deal with certain cases~~  
*in certain areas amongst others, police and private*  
*cases.*

But there is nothing in that order of the

District Magistrate which either expressly or by

necessary implication confines the jurisdiction of

Khan Bahadur Mehta to the particular area in which

he is directed to exercise ~~his~~ jurisdiction. That

being so, I think that, under sub-section (2) of

section 12, Khan Bahadur Mehta continued to have juris-

diction in the whole of the Poona District, and that,

with the consent of the District Magistrate, or the

Additional District Magistrate, he was competent to

try any case arising in the Poona District.

Dr. Ambedkar referred us to a case in

19 Allahabad Law Journal page 77 (Kunj Behari Lal vs

Lanua). That is not an authorised report. But



if the view of <sup>the</sup> ~~that~~ Court in that case <sup>is</sup> ~~is~~ that the mere act of a District Magistrate in carving up a district and allotting a particular area to a particular Magistrate <sup>can</sup> ~~would have~~ the effect of restricting the jurisdiction of that Magistrate to that area and depriving him of ~~the~~ jurisdiction over the rest of the district, I can only say, with great respect to <sup>the</sup> ~~that~~ Court, that I do not agree with <sup>the decision</sup> ~~that view~~. That, in my opinion, is not the proper construction of section 12 of the Code.

There is in my opinion no other ground on which we <sup>can</sup> ~~could possibly~~ interfere in revision, and therefore the application must be dismissed.

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Per N. J. Wadia J

I agree.



CRIMINAL JURISDICTION

Confirmation Case No. of 193

Appeal No. of 193

Reference No. of 193

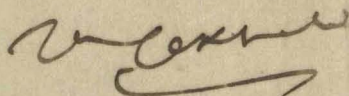
Review No. of 193

Application for Revision No. 192 of 193 5

IMPERATOR vs. Gulaberas Lax-  
manrao Chandgude.

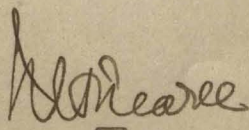
Decided on 1-8-1935-

1. Placed in the Record Room, Shelf  
No. , on the



Court Sheristedar.

2. Received and entered in the Catalogue  
of Criminal Cases, Class



Record Keeper.

Bombay, 7/12

193 5.