

1873.
July 19.

[APPELLATE CRIMINAL JURISDICTION.]

REG. v. PIRTA'I.

*Code of Criminal Procedure, Section 66—District—Foreign Territory—
Foreign subject.*

Where a foreign subject, resident in foreign territory, instigated the commission of an offence which, in consequence, was committed in British territory :—

Held that the instigation not having taken place in any district created by the Code of Criminal Procedure, the instigator was not amenable to the jurisdiction of a British Court established under that Code, Sec. 66.

IN this case three prisoners were convicted of murder, and the fourth, Pirtái, of abetment of murder, by R. F. Mactier, Session Judge of Satara, and all of them were sentenced to death.

The facts, in so far as they are material for the purpose of this report, appear from the following extract from the Session Judge's judgment :—

“The first, second, and third prisoners are charged with the murder of one Bábáji, and the fourth, Pirtái, with abetment of this offence. They are all residents of foreign territory, but the offence was committed within the limits of the Satara District; and as regards the first three prisoners there can be no doubt as to this Court's jurisdiction. As to the fourth, there seem to be a few remarks necessary. The charge against her is, in fact, conspiring within the limits of the Kolhapur State to commit a murder which was eventually committed within the limits of the Satara District, and as to this, Sec. 66 of the Code of Criminal Procedure seems to be clear on the point, and the illustration (d) seems to be quite a case in point, and to lay down that if the offence, to commit which the conspiracy was originally organized, was committed in British territory, it does not matter if the conspiracy itself was organized in the Kolhapur State; and if it be the case that the abetment of murder charged against the

fourth prisoner was committed in the Kolhapur State, this will not prevent her being tried by this Court if the offence abetted be shown to have been committed within British territory. This will be done in the following remarks, and in the meantime I need only record my opinion, that under Sec. 66 of the Criminal Procedure Code, this Court has jurisdiction in the case of the fourth prisoner as well as the first three." The Session Judge then proceeded to discuss the merits of the case, and finding, upon the evidence, the charges proved, sentenced all four prisoners to death.

The appeal was heard by MELVILL and WEST, JJ.

No one appeared to support the appeal.

Dhirajlál Mathurádás, Government Prosecutor, appeared on behalf of the Crown.

PER CURIAM:—(After dealing with the cases of the first three prisoners)

With regard to Pirtái, widow of Bábáji, the Court annuls the conviction and sentence. She was a foreign subject, and the act of which she has been convicted, viz., instigation to commit murder, was an offence wholly committed within foreign territory. The Code of Criminal Procedure extends only to British territory, and Sec. 66 assumes the offence therein indicated to have been committed within a district, *i.e.*, within a local jurisdiction created by the code. Sec. 2 of the Penal Code limits the application of that law to offences committed in British India, and Pirtái does not belong to any class made punishable by British Courts, by a special law, as contemplated by Sec. 3.

Order accordingly.