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former may sign or affix his rank, and this referred to in each clause of the section. The attesting witnesses, however, must sign the will, and we must conclude that a signature is intended as opposed to a mere mark affixed. It was argued for the respondent that as one of the attesting witnesses has signed his name, the requisite number of two may be made up by looking upon the writer as an attesting witness. This argument, however, is invalid for this, if for no other, reason, that the writer signed his name before the testator affixed his mark.

In regarded to the second will, relied on by the appellant, we see no reason for mistrusting the correctness of the decision of the Joint Judge, that it is open to grave suspicion.

The genuineness of the third will is not disputed, and it is not open to the objection taken by the appellant against the first will. We, therefore, amend the order of the lower Court by declaring that the first will, dated the 29th August 1875, is invalid, and cannot, therefore, be acted upon. Each party to bear his own costs in this appeal.

Order accordingly.

APPELLATE CRIMINAL.

(75)

Before Mr. Justice Kemball and Mr. Justice F. D. Melvill.

IMPERTRIX v. KHIMCHAND NARYAAN.*

June 19.

Cotton Frauds Act (Bombay) No. VII of 1878, Secs. 6 & 14—Possession—Adulteration in Foreign Territory—Jurisdiction.

Cotton supposed to have been adulterated in foreign territory was seized in British territory.

Held that the Magistrate of the place, where the Cotton was seized, has jurisdiction to try the offender, as the effect of the new Cotton Frauds Act (Bombay) No. VII of 1878, Secs. 6 & 14, is to make the possession of "Cotton liable to confiscation" punishable with fine, and it is immaterial where the adulteration takes place.

THIS was a reference, under section 296 of the Code of Criminal Procedure, by A. A. Borradaile, Magistrate of the district of Ahmedabad.

*Criminal Reference, No. 63 of 1870.

The accused Khimchand Narayan despatched some bales of cotton from Limbid, in Kathiawar, Dholera, in British territory, for sale. On examination, by the cotton inspector, the bales were found to have been mixed with sand and other materials, which rendered them liable to be seized under section 6 of the Cotton Frauds Act, 1878. The inspector seized them, and prosecuted the accused before the Magistrate (Second Class) of Dhandhuka, who convicted him, and imposed a fine of Rs. 150. He further ordered that the cotton should be cleared at the expense of the accused, and returned to him.

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The District Magistrate thought that the decision of the Subordinate Magistrate should be reversed on the ground of want of jurisdiction. He said: "There is nothing to prove that the adulteration was effected in British territory; it was presumably effected in foreign, as the carts were in transit from Sacla, under Kathiawar, when the cotton was seized. If the offence was committed in foreign territory, it cannot be punished in British. An inspector can, under section 6, seize any cotton, "wherever the same may be," which, he has reason to believe, is liable to confiscation under the Act; but, in my view is correct, no cotton which has been adulterated in foreign territory is liable to confiscation."

Per Curiam.—The effect of the new Cotton Fraud Act (Bombay) No. VII of 1878 secs. 6 & 14, is to make the possession of "cotton liable to confiscation" punishable with fine, and it is immaterial where the adulteration takes place.

Under the circumstances the Court sees no reason to interfere, and orders the record and proceedings to be returned.

Order accordingly.
