

best be tried in one suit where all the three parties are before the Court as *parties*. The absence of one of the two sets of defendants would be both inconvenient and embarrassing in trying the questions between the plaintiff and one set of defendants whereas the presence of both sets of defendants would lead to a complete and effectual adjudication of all questions involved in the suit.

I hold for the reasons I have given above that the suit is properly constituted, that there is no misjoinder either of parties or of causes of action and I record a finding on the first issue in the affirmative.

The costs occasioned by the argument and trial of the first issue reserved to be dealt with when the question of costs of the suit is considered.

Attorneys for plaintiff: *Messrs. Mulla and Mulla.*

Attorneys for defendants: *Messrs. Bhaishanker, Kanga and Girdharlal*; and *Messrs. Matubhai, Jamietram and Madan.*

B. N. L.

CRIMINAL REVISION.

Before Mr. Justice Chandavarkar and Mr. Justice Heaton.

EMPEROR *v.* PASCAL SHIMAU.*

Cantonments Act (XIII of 1889), sec. 13†—Supply—Intoxicating drug—Supply of liquor to a European soldier—Servant of a soldier buying liquor with soldier's money for soldier's use.

The accused, a servant of a soldier, bought with his master's money liquor from a shop in obedience to his master's directions and gave it to him. On

* Criminal Application for revision, No. 72 of 1907.

† The Cantonments Act (XIII of 1889), section 13, runs as follows:—

If within a cantonment, or within such limits around a cantonment as the Local Government may, by notification in the Official Gazette, prescribe in this behalf, any person not subject to military law or any person subject to military law otherwise than as an officer or soldier knowingly barter, sell or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a follower or a soldier's wife, without the written permission of the Commanding Officer of the Cantonment or of some person authorised by the Commanding Officer to grant such permission, he shall be punished with a fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

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these facts, the Magistrate held that the act of the accused amounted to "supplying" liquor to a soldier within the meaning of the term as used in section 13 of the Cantonments Act (XIII of 1889), and convicted and sentenced him under the section;—

Held, reversing the conviction and sentence, that the term "supply" in section 13 of the Cantonments Act (XIII of 1889) must have a restricted meaning put upon it and it is inapplicable in the case of a servant giving his master liquor belonging to the master himself. Its context "barter or sells" indicates that it has the same idea underlying it in common with them. It also must relate to a transaction between two persons dealing at arm's length and therefore independent of each other.

APPLICATION under section 435 of the Criminal Procedure Code (Act V of 1898), to revise conviction and sentence passed by Captain G. L. Cattell, Cantonment Magistrate, First Class, Ahmednagar.

The accused was in the employ of European soldiers in the Ahmednagar Cantonment. He was asked by his masters to purchase some liquor for them with their own money. He obeyed.

On these facts, the accused was convicted, under section 13 of the Cantonments Act (XIII of 1889) of knowingly supplying spirituous liquor for the use of European soldiers and was sentenced to suffer rigorous imprisonment for one month.

The accused applied to the High Court.

T. B. Desai, for the applicant:—The accused, a servant of European soldiers, purchased at his master's bidding and with his master's money some spirituous liquor and supplied it to them. His act does not fall within section 13 of the Cantonments Act (XIII of 1889). The word "supply" in the section must be given a meaning which fits in with its context "barter" or "sell." The section is meant to aim at a person who sells liquor for money to a soldier. If the term "supply" is given a wide meaning, then the servant of a soldier who fetches liquor to his master from his cupboard would come within the purview of the section.

The Government Pleader, for the Crown:—The object of the Legislature in enacting section 13 of the Cantonments Act (XIII of 1889) seems to be to prevent and put down cases of unautho-

rized supply of liquor to soldiers in Cantonments. There is no reason to put any stricter interpretation on the term "supply," which seems to have been advisedly used to cover all cases of supplying liquor to a European soldier.

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CHANDAVARKAR, J. :—The petitioner has been convicted by the Cantonment Magistrate of Ahmednagar, under section 13 of the Cantonments Act XIII of 1889, of the offence of supplying liquor to a European soldier. The facts found are that the petitioner, being a servant of the soldier, bought liquor from a shop in obedience to the soldier's directions and gave it to him. The liquor was purchased with the soldier's money. The Magistrate has held that the act of the petitioner in purchasing the liquor and giving it to the soldier amounts to "supplying" it to him within the meaning of the term as used in section 13. The word "supply" may mean "to give" or "to bring", but having regard to the collocation of the words in section 13, we do not think that it is used in that wide sense. The material words are: If "any person knowingly barter, sells or supplies." It is important to bear in mind that so far the section begins with the word "barter," a word of an inferior degree or limited meaning, and ends with the word "supply" with a more extensive signification. To such a case the rule applies that "where a particular class" (of persons or things) "is spoken of, and general words follow, the class first mentioned is to be taken as the most comprehensive, and the general words treated as referring to matters *ejusdem generis* with such class": per Pollock C. B. in *Lyndon v. Standbridge*⁽¹⁾. The word "barter" means interchange, the exchange of one commodity for another, and the idea underlying it is that it is in the nature of a transaction between two persons dealing in respect of it with each other at arm's length. "Sale" carries with it the same idea except that in it money is paid for the commodities transferred. And when the word "supply" comes immediately after those two words, it must be understood as having the same idea underlying it in common with them. It also must relate to a transaction between two persons dealing at arm's length

(1) (1857) 2 H. & N. 45 at p. 51.

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and therefore independent of each other for its purposes. A person is said to supply one thing to another when that thing belongs to him or rather when the thing does not belong to the latter. That cannot be said when a servant gives to his master what belongs to the master himself. If the master orders his servant to buy liquor from a shop and bring it to him, the moment the liquor is bought it becomes the master's property. The possession of the servant is in law the possession of the master and the former is identified for the purposes of the transaction with the latter. In such a case the servant cannot be said to *supply* his master with the liquor. Suppose a master, having liquor belonging to him in his own house or room, orders his servant to bring it for him to drink and the servant obeys the order, it can hardly be said in such a case that the servant has supplied liquor to his master. What difference can it make if the liquor is bought by the servant with his master's money from a liquor-seller in obedience to his order and given to him? The only difference is of place but in other respects the two cases are exactly alike. That the Legislature did not intend this to be the meaning of the word "supply" is clear from the fact that it occurs after two words of a more limited meaning. That word, therefore, must have a restricted meaning put upon it in section 13 and is inapplicable in the case of a servant giving his master liquor belonging to the master himself. This view of the section is confirmed by section 14, which provides for the case of the wife or servant of a soldier, apparently as being a special case on account of the relation in which they stand to the soldier and the indispensable character of their services. They are allowed to have in their possession a certain prescribed quantity of liquor. On these grounds we must reverse the conviction and sentence and acquit the petitioner.

Conviction reversed.

R. R.
