contradistinction to the tax assessed. If the legislature intended that the amount of tax assessed should have been deposited, it would have clearly said so as we find in many other statutes. For instance, in proviso to section 20 of the Punjab General Sales Tax Act, 1948, it has been enacted that "no appeal shall be entertained by such authority unless he is satisfied that the amount of tax assessed and the penalty, if any, imposed on the dealer has been paid". Different language employed in sub-section (2) of section 85 of the Act cannot be without a purpose which appears to be that municipal dues should not accumulate in the hands of an inhabitant of the municipality and he can seek his remedy by way of an appeal, against any new or fresh tax, unhindered by any pre-conditions, if he is not a defaulter. To my mind, this is the only interpretation which is consistent. It is a fiscal matter dealing with financial implications and an interpretation beneficial to the citizen should always be placed, more so when the same is consistent with the ordinary meaning of the words used."

I am in respectful agreement with the analysis of the provisions of sub-section (2) made by the learned Judge.

(10) The result is that this appeal fails and is, accordingly, dismissed. In the circumstances of this case, however, there will be no order as to costs.

Gopal Singh, J.—I agree.

N. K. S.

APPELLATE CRIMINAL

Before R. S. Sarkaria and S. C. Mittal, JJ.

NASIB SINGH, AND OTHERS,—*Appellants.*

versus

THE STATE OF PUNJAB,—*Respondents.*

Criminal Appeal No. 848 of 1969.

September 2, 1971.

Indian Penal Code (XLV of 1860)—Sections 120-B and 415—Code of Criminal Procedure (Act V of 1898)—Sections 196-A, 239 and 537—Prosecu-

tion for an offence of criminal conspiracy—Sanction under section 196-A—Whether depends on the object of the conspiracy—Method of determination of such object—Stated—Object of the conspiracy not to commit cognizable offences punishable with imprisonment for two years or more—Sanction of the State Government for prosecution of the offender not taken—Trial for the offence of criminal conspirary—Whether vitiated—Conviction of accused persons for offences committed in pursuance of the criminal conspiracy for which distinct charges framed—Absence of sanction for the charge of criminal conspiracy—Whether affects such conviction—Misjoinder of charges or of accused persons not occasioning failure of justice—High Court—Whether competent to interfere—Section 415, Indian Penal Code—Term "property" mentioned therein—Whether used in the narrow sense—Return of a document by the Sub-Registrar after due registration—Whether amounts to "delivery of property".

Held, that the question whether or not sanction under section 196-A, Code of Criminal Procedure, for prosecution in respect of an offence of Criminal conspiracy is necessary, depends upon the object of the conspiracy. Such object of the conspiracy has to be determined at the initial stage not only by reference to the sections of the penal enactment referred to in the complaint, but also on the facts narrated therein, the language and substance of the charges framed and the evidence tendered before the Court. (Paras 12 and 13).

Held, that the difference between the *object* of a conspiracy and the *means* adopted for realizing that object has to be kept in mind for deciding whether sanction of the State Government for the trial of the accused for criminal conspiracy is necessary. Where the object itself of the Criminal conspiracy is not to comit a cognizable offence punishable with imprisonment for a term of two years or more, the requisite consent or sanction of the State Government or the competent authority under section 196-A of Code of Criminal Procedure for prosecution of the accused persons in respect of the Criminal conspiracy, under section 120-B of the Indian Penal Code, is necessary. When no such sanction has been obtained, the trial of the accused under section 120-B is bad in law and is vitiated. Conviction on that charge cannot be sustained. (Para 15)

Held, that where the complaint and the charge-sheet, disclosed not only an offence under section 120-B, Indian Penal Code but also distinct offences, actually committed in furtherance of the object of the conspiracy and in respect of which separate and substantive charges have been framed, the absence of sanction under section 196-A does not affect the trial and the conviction of the accused persons for the other offences. A trial Judge in the absence of sanction under section 196-A, Code of Criminal Procedure, takes illegal cognizance of the charge under section 120-B, Indian Penal Code, but there is nothing to prevent the Court from proceeding with the trial of all or any of the alleged co-conspirators for other substantive offences even if such offence were committed in pursuance of the conspiracy as steps for the attainment of its object. (Para 18).

Held, that under section 537(b) of Code of Criminal Procedure, as amended in 1955, no finding, sentence or order passed by a competent court can be reversed or altered on account of any misjoinder of charges unless the same has occasioned a failure of justice. Misjoinder of charges within the ambit of clause (b) obviously includes the misjoinder of offences or of accused persons. The High Court is not competent to interfere in the conviction of the accused unless the misjoinder has occasioned a failure of justice. (Para 22)

Held, that the term 'property' in section 415, Indian Penal Code, has not been used in a narrow technical sense as something having pecuniary value but has been used in its widest sense. Whether a thing is or is not 'property' within the meaning of section 415 of the Code does not necessarily depend on its having a money or market value. If a thing has some special value in the hands of the person or persons who may get possession of it as a result of the deception practised by him or them, it will be sufficient to bring it within the connotation of the term 'property' occurring in Sections 415 of Indian Penal Code. (Para 36)

Held, that the endorsement and certificate of the Sub-Registrar issued under the Registration Act has a special value. Such a certificate signed and dated by the Registering Officer is admissible for the purpose of proving that the document has been duly registered in the manner provided by the Act and that the facts mentioned in the endorsements occurred as therein mentioned. A certificate of the Registrar requires no other proof and its genuineness must be presumed. Hence the return of a document by Sub-Registrar after appending his necessary endorsement and certificate amounts to the delivery of 'property' within the meaning of Section 415 of Indian Penal Code. (Para 40)

Appeal from the Order of Shri S. S. Sodhi, Additional Sessions Judge, Hoshiarpur dated the 11th July, 1969, convicting the appellants.

M. L. Nanda, and Har Parshad Advocates,—*for the appellants.*

D. N. Rampal, Assistant Advocate General, Punjab,—*for the respondents.*

JUDGMENT.

R. S. SARKARIA, J.—(1) Seven persons, namely, Nasib Singh son of Barit Singh, Kirpa Ram son of Johri, Mehar Chand son of Moti Ram, Milkhi Ram son of Lakhu Ram, Munshi Ram son of Thakar Dass, Karam Chand son of Asa Ram and Sadhu Ram son of Johri, were tried on the basis of a complaint made by Hari Chand son of Bishna Ram on charges under Sections 120-B, 467, 419, 420 and 467/471, Indian Penal Code, by Shri S. S. Sodhi, Additional Sessions

Judge, Hoshiarpur. Karam Chand and Sadhu Ram were acquitted, while the remaining five were convicted as follows:—

(i) All the five accused under Section 120-B, Penal Code, and sentenced to two years rigorous imprisonment each.

(ii) Munshi Ram, Mehar Chand, Milkhi Ram and Kirpa Ram accused under section 467, Penal Code, for forging the power of attorney (Exhibit PA) and each sentenced to three years rigorous imprisonment.

(iii) Munshi Ram and Nasib Singh, under Section 467, Penal Code for forging pronote for Rs. 1,000 dated 14th December, 1962 and each sentenced to two years rigorous imprisonment.

(iv) Munshi Ram, Mehar Chand and Milkhi Ram, under Sections 419/420, Penal Code, and sentenced to two years rigorous imprisonment each.

(v) Kirpa Ram, under Section 467 read with Section 471, Penal Code, for dishonestly using the forged power of attorney (Exhibit PA) as genuine and sentenced to three years rigorous imprisonment.

(2) It was directed that the sentences on all the counts would run concurrently.

(3) The convicts have preferred Criminal Appeal 848 of 1969 (*Nasib Singh and others* v. *The State*), while Criminal Appeal 1271 of 1969 (*Hari Chand* v. *Karam Chand*) against the acquittal of Karam Chand, filed by Hari Chand complainant, with the leave of the Court granted under Section 417(3), Code of Criminal Procedure is also before us. Both the appeals will be disposed of by this judgment.

(4) The facts of the prosecution case, as they emerge from the record, are as follows:

There was one Sansara (alias Sansar Singh) son of Arjan who, in lieu of the lands left by him in Pakistan, was allotted agricultural land in four villages, namely, Parowal, Pakhowal, Hajipur and Tejpur, in District Hoshiarpur. These lands were worth more than Rs. 25,000.

Sansara was an old man of about 80 years. Sansara died on August 11, 1963. The only heir of Sansara was his daughter, Shrimati Dhan Devi, who sold the entire landed estate inherited by her from her deceased father, to Hari Chand complainant. When before the Tehsildar, in mutation proceedings Hari Chand was opposed by Karam Chand and Sadhu Ram accused, it came to light that Munshi Ram, personating as Sansara had, with the collaboration of Milkhi Ram and Mehar Chand accused (who had fraudulently identified Munshi as Sansara) got the forged power of attorney (Exhibit PA) registered by the Sub-Registrar, Shri Amar Singh, on January 31, 1963. Under this general power of attorney, Kirpa Ram was given vast powers to incur liabilities and to sell and alienate all the immoveable properties of Sansara. On the basis of that forged power of attorney (Exhibit PA), Kirpa Ram made two sales of the lands of Sansara; one on August 19, 1963, in favour of Karam Chand and Sadhu Ram accused, another on April 2, 1964 by a registered deed, in favour of Karam Chand accused. Both the sales, according to the prosecution, were made after the *death* of Sansara.

(5) On January 31, 1963, Munshi Ram accused in his assumed character of Sansara, executed a pronote of Rs. 5,000 in favour of Karam Chand. Earlier on December 14, 1962, also, Munshi Ram, personating as Sansara, and Nasib Singh had jointly executed a pronote for Rs. 1,000 in favour of Karam Chand. Kirpa Ram accused had attested the connected receipts pertaining to the consideration of the two pronotes.

(6) Nasib Singh accused is the nephew of Sansara. Munshi Ram accused is the brother of Ananta, father-in-law of Nasib Singh. Kirpa Ram accused had a brother, named Asa Ram. The latter had two sons, namely, Karam Chand accused and one Devi Chand who is married to the daughter of Sadhu Ram accused. No blood relationship of Milkhi Ram and Mehar Chand with the other accused has been established.

(7) After coming to know of the fraud, Hari Chand, complainant, on September 2, 1965, made the complaint (Exhibit P31) in the Court of the Judicial Magistrate 1st Class, Garhshankar against all the seven accused persons. It would be worthwhile to reproduce here the material portion of the complaint in *extenso*. It reads as under:

> ".....Thinking that Sansara is an old man and likely to die soon and not in a position to look after his property, the

accused prepared a forged and fabricated document purporting to be a General Power of Attorney on behalf of Sansar Singh in favour of Kirpa Ram accused (No. 2). They got the document written purporting to be on behalf of Sansar Singh, but got it thumb-impressed by.....accused No. 3 Munshi Ram, and produced him before the Sub-Registrar showing him to be Sansara. Mehar Chand Sarpanch (accused No. 4) and Milkhi Ram (accused No. 5) dishonestly and falsely knowing that the person present before the Registrar who had signed the document was not Sansara, falsely stated before the Sub-Registrar, that the person present (the executant) was Sansara, and on their identification, the Sub-Registrar registered the fabricated Mukhtiar-nama on 31st January, 1963. Kirpa Ram on the basis of this fabricated Mukhtiar-nama, sold the land of Sansara to his nephew, Karam Chand (accused No. 6) and Sadhu Ram (accused No. 7) to whose daughter Kirpa Ram's nephew is married. Those two persons also knew fully well that the power of attorney in favour of Kirpa Ram was a forged one. In fact, they were a party from the very beginning to the creating of this fabrication. Nasib Singh managed all this fabrication and had received illegal gratification. Munshi Ram is brother of father-in-law of Nasib Singh. All these persons joined together to fabricate this document and were present when the document was written and thumb-impressed.....The accused have committed serious offences under Sections 419, 420, 465, 467, 468, 471, Indian Penal Code."

(8) After making a preliminary judicial inquiry, the Magistrate committed all the seven accused persons to the court of Session for trial. The charges framed by the Magistrate, were as under:—

"*Firstly,* that in the month of January, 1963 at Garhshankar, all of your accused conspired together to deprive Shri Sansara son of Shri Arjan Singh of village Sahibke and his legal heirs of his agricultural lands, situated in villages Pakhowal and Hajipur, Tehsil Garhshankar, District Hoshiarpur, by forging his general power of attorney on his behalf authorising Kirpa Ram co-accused, to sell his land, and in the prosecution of that conspiracy, you Kirpa Ram sold the said lands to Karam Chand and Sadhu Ram,

co-accused, and thereby all of you committed an offence punishable under Section 120-B which is cognizable by the Court of Session.

Secondly, that on 31st January, 1963, at Garhshankar, you Munshi Ram, Nasib Singh, Mehar Chand, Milkhi Ram and Kirpa Ram, forged the general power of attorney (Exhibit PA) authorising Kirpa Ram co-accused to sell the agricultural lands of Sansara son of Arjan Singh deceased of village Shibke, and thereby you Munshi Ram, Nasib Singh, Mehar Chand, Milkhi Ram and Kirpa Ram, committed an offence under section 467 I.P.C.

Thirdly, that you Munshi Ram and Nasib Singh accused stand further charged for forging the promissory note of Rs. 1,000, dated 14th December, 1962, and pronote of Rs. 5,000, dated 31st January, 1963, at Garhshankar in favour of Karam Chand co-accused and you Nasib Singh signed the pronotes as co-debtor of Sansara deceased and you Munshi Ram put your thumb-impression on the pronotes representing yourself as Sansara co-debtor, and used them as genuine documents and thereby committed an offence under Section 467 I.P.C.

Fourthly, that on 31st January, 1963, at Garhshankar, you Munshi Ram represented yourself as Sansara son of Arjan of village Sahibke and you Mehar Chand and Milkhi Ram dishonestly and falsely attested the identity of Munshi Ram co-accused as that of the said Sansara before Shri Amar Singh Bharta, Sub-Registrar, Garhshankar and thereby you Munshi Ram committed an offence under Section 419 I.P.C. and you, Mehar Chand and Milkhi Ram cheated the said Sub-Registrar, to get the general power of attorney attested and thereby committed an offence under Section 420 I.P.C.

I hereby direct that you be tried by that Court."

(9) At the trial, the learned Additional Sessions Judge, Hoshiarpur, also framed a charge under Section 467 read with S. 471 Penal Code, against Kirpa Ram accused. This runs as follows:

"I, S. S. Sodhi, Additional Sessions Judge, Hoshiarpur, charge you Kirpa Ram son of Johri, resident of Hajipur, accused as under:

"That on 19th August, 1963 and 2nd April, 1964, you dishonestly used as genuine the power of attorney which

you then knew to be a forged document and that you thereby committed an offence under Sections 467 and 471 of the Indian Penal Code and within my cognizance.

And, I hereby direct that you be tried by me under the said charges."

(10) The first contention of Mr. Nanda, learned counsel for the appellants, is that the entire trial in this case was illegal and vitiated for want of consent or sanction of the State Government or the competent authority under Section 196-A of the Code of Criminal Procedure. The object of the criminal conspiracy—contends Mr. Nanda—was not to commit any cognizable offence punishable with imprisonment for a term of two years or more, but only to commit illegal acts, viz., to deprive Sansara and his legal heirs of his landed property. It is maintained that the commission of the non-cognizable offence, under Sections 467 and 471 Penal Code, were only steps or means for achieving the aforesaid object of the conspiracy, but they were not an end in themselves. In the alternative, it is argued that even if the object of the conspiracy was to commit offences, those offences were only non-cognizable, under Sections 467 and 471 Penal Code, and not cognizable offences punishable under Sections 419/420, Penal Code. In these circumstances, the consent or sanction of the State Government or the competent authority was a condition precedent to the valid prosecution of the appellants. In support of his contention, the learned counsel has referred to *Madan Lal* vs. *State of Punjab* (1), *Bhanwar Singh* vs. *State of Rajasthan,* (2), *Manmohan Singh Johal* vs. *State,* (3), *Muhammad Bakhsh* vs. *Emperor,* (4), *Kanta Parsad* vs. *Delhi Administration,* (5), *Pritam Singh* vs. *State of Haryana,* (6), and *Lt. Col. G. K. Apte* vs. *Union of India,* (7).

(1) A.I.R. 1967 S.C. 1590.

(2) A.I.R. 1968 S.C. 709.

(3) A.I.R, 1969 Pb. 225,

(4) A.I.R. 1941 Lah. 460.

(5) A.I.R, 1958 S.C, 350.

(6) 1970 Cr. App. Rep. (S.C.) 224.

(7) A.I.R. 1970 Assam and Nagaland 43.

(11) To appreciate the point raised by the learned counsel, it is necessary to keep in mind the provisions of Section 196-A, Code of Criminal Procedure which reads as follows:

Section 196-A

No court shall take cognizance of the offence of Criminal conspiracy punishable under Section 120-B of the Indian Penal Code:

(1) In a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of Section 196 apply, unless upon complaint made by order or under authority from the State Government or some officer empowered by the State Government in this behalf, or

(2) In a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards unless the State Government, or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the State Government has, by order in writing, consented to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of Sub-Section (4) of Section 195 apply no such consent shall be necessary."

(12) The question whether or not sanction under Section 196-A, Code of Criminal Procedure, to the prosecution in respect of an offence of conspiracy is necessary, depends upon the object of the conspiracy. The first question, therefore, that crops up for determination is: What was the object of the conspiracy in the instant case ?

(13) It is well settled that such object has to be determined at the initial stage not only by reference to the Sections of the penal enactment referred to in the complaint, but also on the facts narrated therein, the language and substance of the charges framed and the evidence tendered before the Magistrate. These principles can be

deduced from a conspectus of the cases reported as : *State of Andhra Pradesh* Vs. *Kandimalla Subbaiah and another,* (8), *Sheikh Biroo Sardar* Vs. *Y. C. Ariff and others,* (9), *Ramchandra Rango Sawkar and others* Vs. *Emperor,* (10), and *Bhanwar Singh* Vs. *State of Rajasthan,* (2).

(14) The complaint (Exhibit P31) and the charges framed against the accused persons have already been set out in extenso in a foregoing part of this judgment. It is further necessary to notice in this connection the contents of the forged power of attorney (Exhibit PA) by virtue of which "Sansara" purportedly gave wide powers to Kirpa Ram (accused). It says:

> ".....He should file an application for the allotment of my remaining land.....file applications of all kinds and attest the same, make the payment of loan which I will raise from any person after today, sell the land wherever it would be allotted to me, get the sale-deed scribed, put his signature or thumb-mark thereon, produce the same for registration before the concerned Sub-Registrar, pursue the matter in all respects, make statement at the time of mutation, get mutation sanctioned, appoint special attorney. In short, any action which is to be taken regarding the land, he should take the same it shall be binding on me as if I myself had personally done the same. Hence, this general power of attorney has been executed so that it may serve as an authority."

(15) Reading the complaint, the charges and the power of attorney (Exhibit PA) together, it appears to me that the object of the conspiracy was to deprive dishonestly and fraudulently, Sansara and his legal heirs of the landed property and this object was to be achieved by committing both non-cognizable offences under Section 467/471 I.P.C. and cognizable offences under Sections 419/420 I.P.C. As observed by their Lordships of the Supreme Court in *Bhanwar Singh's* case (Supra), it is necessary to keep in mind the difference between the *object* of a conspiracy and the *means* adopted for realizing that object. Bearing this distinction in mind, it is clear

(8) A.I.R. 1961 S.C. 1241.
(9) A.I.R. 1925 Cal. 579.
(10) A.I.R. 1939 Bom. 129.

that the object, itself of the Criminal conspiracy was not to commit a cognizable offence punishable with imprisonment for a term of 2 years or more. The requisite consent or sanction of the State Government or the competent authority, under Section 196-A, Code of Criminal Procedure, for prosecution of the accused persons in respect of the offence of criminal conspiracy, under Section 120-B Penal Code, was, therefore, necessary. Since no such sanction had been obtained, the trial of the accused *for that offence* was bad in law. Their conviction, therefore, on the charge under Section 120-B Penal Code, cannot be sustained and is set aside.

(16) Further question to be considered is: What is the effect of the absence of necessary consent under Section 196-A, Code of Criminal Procedure, on the trial and conviction of the accused in respect of offences under Sections 467, 471, 419 and 420, Penal Code, which offences were actually committed and in respect of which the accused persons were distinctly and substantively charged. The rule laid down by their Lordships of the Supreme Court in *Madan Lal's case* (Supra) in my opinion, is a complete answer to this question.

(17) In that case, the accused was charged under Sections 120-B, 409 and 477-A, Penal Code. It was contended that, though the accused was charged under Sections 120-B and 477-A, Penal Code, no sanction under Section 196-A(2), Code of Criminal Procedure, was obtained, and, therefore, the entire trial was vitiated. Reliance for the contention was placed on a decision of Patna High Court reported as *Abdul Mian* Vs. *The King,* (11), wherein it was held that sanction to prosecute is a condition precedent to the institution of prosecution and that it is the sanction which confers jurisdiction on the court to try the case. The charge in *Abdul Mian's case* was under Section 295-A, Penal Code, and sanction having not been obtained for prosecution, the High Court held that even though the Magistrate trying the accused ultimately convicted him under Section 298 which did not require sanction, the trial was vitiated as the Magistrate could not proceed with the Charge-sheet without the requisite sanction. The decision in *Govindram Sunder Das* v. *Emperor,* (12), was also called in aid, where it was observed by the Sind Court that if the offence of Criminal conspiracy to commit forgery is charged against a person and the previous consent of the local Government under Section 196-A,

(11) A.I.R. 1951 Patna 513.

(12) A.I.R. 1942 Sind. 62.

though required, is not obtained, the Court cannot take cognizance of the complaint. Their Lordships distinguished these decisions on the ground that they were "in respect of cases where a single charge was preferred against the accused and previous sanction was not obtained." That point of distinction applies with greater force to the facts of the present case, because, here, distinct charges in respect of substantive offences under Sections 467, 471, 419 and 420, Penal Code, were framed against the accused.

(18) After referring to the provisions of Sections 196-A(2), Code of Criminal Procedure, their Lordships made these illuminating observations :

> "The conspiracy to commit an offence is by itself distinct from the offence to do which the conspiracy is entered into. Such an offence, if actually committed, would be the subject-matter of a separate charge. If that offence does not require sanction, though the offence of conspiracy does and sanction is not obtained it would appear that the Court can proceed with the trial as to the substantive offence as if there was no charge of conspiracy."

Their Lordships noticed with approval certain decisions of the High Courts, including one of the Punjab High Court, as follows:

> "In *Sukumar Chatterjee* v. *Mofizuddin Ahmed,* (13), where the charge was under Section 404 read with Section 120-B and no sanction was obtained it was held that the case could proceed though only under S. 404. Similarly, in *Syed Yawar Bakht* v. *Emperor,* (14), the accused was charged under S. 120-B read with S. 467 and also under S. 467 read with S. 109 of the Penal Code. No sanction was obtained. It was held that the consequence of not obtaining the sanction was as if the charge under Section 120-B read with S. 467 had never been framed but the accused could be convicted under the other charge, viz. under S. 467 read with S. 109 of the Penal Code. The same view has also been taken by the Punjab High Court in *Ram Pat* v. State, (15), where it was held that where a complaint discloses more

(14) A.I.R. 1940 Cal. 277.
(15) 1962 A.I.R. 519.

offences than one, some of which can be inquired into without sanction and others only after sanction has been obtained, there can be no objection to the inquiry being carried on in respect of the first category of offences."

Applying the law, as stated above, to the facts of the present case, it may be noted that both the complaint and the charge-sheet, disclosed not only an offence under Section 120-B, but also distinct offences, actually committed under Sections 467, 471 and 419/420, Penal Code, in respect of which separate and substantive charges were framed. Though the charge under Section 120-B, as found above, required sanction, no such sanction was necessary in respect of the charges under Sections 467, 471, 419/420, Penal Code, because these offences were, admittedly, not committed in or in relation to 'any proceeding in *Court*' within the meaning of Section 195, Code of Criminal Procedure, the Sub-Registrar or the Mutation Officer before whom the forged power of attorney was produced or sought to be used, not being a 'court' within the meaning of Section 195, *ibid.* In the light of *Madan Lal's case* (Supra), at the most, it can be said that the Magistrate and the trial Judge, in the absence of sanction under section 196-A, took illegal cognizance of the charge under Section 120-B. But there was nothing to debar the Court from proceeding with the trial of all or any of the alleged co-conspirators for other substantive offences even if such offences were committed in pursuance of the conspiracy as steps for the attainment of its object.

(19) *Bhanwar Singh's case* (Supra) is of no assistance to the appellants. The facts of that case were materially different. There, it was clear that the object of the conspiracy was to commit the offence of cheating under Section 420, Penal Code, which is punishable with more than two years imprisonment. Their Lordships, therefore, held that the case was covered by the saving clause in Sub-section (2) of Section 196-A and no consent for prosecution was necessary.

(20) In view of the above discussion, we would further hold that the trial of the accused persons concerned on the 2nd, 3rd, 4th and 5th charges, in respect of offences under Sections 467, 419/420, 467/471, Penal Code, respectively, was not vitiated merely because no sanction for their prosecution, on charge under Section 120-B, had been obtained. To this extent, we negative the contention of Mr. Nanda.

(21) It was next contended that the trial was vitiated because there was a misjoinder of charges and persons—the offences under

Sections 467, 419/420 and 467/471, Penal Code, being distinct offences committed separately by separate groups of accused-persons. It is maintained that the provisions of Section 239, Code of Criminal Procedure, have been observed in breach in as much as these offences were not committed in the course of the same transaction. It is urged that this misjoinder was not a mere irregularity curable under Section 537, Code of Criminal Procedure. In support of this contention, counsel has referred to : *Raj Narain and Ors.* Vs. *The State,* (16), *Amar Singh and another* Vs. *The State,* (17), *C. N. Krishna Murthy* Vs. *Abdul Subban and another,* (18), and *the State of Andhra Pradesh* Vs. *Cheemalapati Ganeswara Rao,* (19).

(22) This contention also appears to be devoid of force. The Punjab and Allahabad cases cited by the counsel for the appellants were decided before the coming into force of the Code of Criminal Procedure (Amendment Act 1955), Section 106 of which inserted the new clause (b) in Section 537. The effect of this amendment is that no finding, sentence or order passed by a competent court shall be reserved or altered on account of any misjoinder of charges unless the same has occasioned a failure of justice. In view of this amendment, the Punjab and Allahabad rulings, cited by Mr. Nanda, are no longer good law. Misjoinder of charges within the ambit of the new clause (b) of Section 537, obviously includes the misjoinder of offences or of accused persons. Further, this objection was not taken before the Courts below; nor has it been taken in the grounds of appeal. No prejudice, whatever, has been caused to the accused. It is settled that if objection as to misjoinder of charges and accused persons was not taken at the trial, the High Court is not competent to interfere unless it has occasioned a failure of justice. *The State of Andhra Pradesh* v. *Cheemalapati Ganeswara Rao,* (20).

(23) As regards the conviction of Munshi Ram, Mehar Chand, Milkhi Ram and Kirpa Ram, appellants, on charge No. 2, Mr. Nanda contends that the evidence on the record was not sufficient to warrant the finding that Munshi Ram had thumb-marked the power of attorney (Exhibit PA) while personating as Sansara. The evidence

(16) A.I.R. 1953 All. 448.
(17) A.I.R. 1954 Pb. 106.
(18) A.IR. 1965 Mysore 128.
(19) A.I.R. 1963 S.C. 1850.
(20) A.I.R. 1963 S.C. 1850.

of the Finger-Print Experts, Sarvshri S. S. Jain (PW4) and Agya Ram (PW9), according to the counsel, was not a safe and sufficient basis for convicting the accused.

(24) We find, in agreement with the learned trial Judge, that the Expert testimony furnished by Sarvshri S. S. Jain (PW4) and Agya Ram (PW9) was clear, convincing and reliable.

(25) Shri S. S. Jain examined and photographed all the questioned thumb-impressions 'A', 'B', and 'C' on Exhibit PA, those in the registers of the Deed-writer, Mansa Ram, and Exhibits PB, PC and PD on the copy produced by the Registration clerk, on two occasions. The first of these occasions was on 16th May, 1966 when in the court of the Tehsildar, Surain Singh (P.W.7) proficient, had taken specimen thumb-impressions (Exhibit P11/A) of Munshi Ram accused. Shri Jain then photographed those specimen thumb-impressions, also, and compared them with the disputed thumb-impressions and submitted the report (Exhibit P. 12), opining that the disputed thumb-impressions 'A', 'B' and 'C' on Exhibit PA were of Munshi Ram accused (This report, Exhibit P.12 which contains detailed reasons in support of the opinion, was only proved by Shri Jain when he appeared in the trial Court.) It is to be noted that then, all the disputed thumb-impressions—as deposed to by Shri Jain—were in their original, untampered condition.

(26) The second occasion when the Expert examined and photographed the disputed thumb-impressions was on December 13, 1966 in the court of Shri A. C. Rampal, Judicial Magistrate, Garhshankar. On this date more specimen thumb-impressions of Munshi Ram accused were taken and photographed. The Expert prepared the enlarged photographs, Exhibits PW10/1(A), PW10/2(B) and PW10/3(C) of the disputed thumb-impressions on Exhibit PA. As has been sworn to by the Expert, it was on this occasion that it was found that an attempt had been made to erase and disfigure the disputed thumb-impressions marked 'C' and 'A' on Exhibit PA by rubbing them off. The attempt at disfigurement had not completely succeeded because, according to Mr. Jain, in all the discernible characteristics these thumb-impressions tallied with the specimen thumb-impressions of Munshi Ram accused. Shri Jain testified that then (on December 13, 1966), the disputed thumb-impression marked 'B' on Exhibit PA was clear and untampered, and tallied in all its characteristic details with the specimen thumb-impression of Munshi Ram accused on Exhibit P11/A. Giving sound reasons, the Expert (in his Report Exhibit P 23) opined that the

disputed thumb-mark 'B' on Exhibit PA was of Munshi Ram accused and of none else.

(27) The examination-in-chief of Shri Jain was made on June 25, 1969. His cross-examination, which had been deferred at the request of the defence, took place on June 27, 1969. In cross-examination, the Expert after seeing the thumb-impression 'B' on Exhibit PA, said that it had been super-imposed since he last examined it, and had become incapable of comparison.

(28) Shri Agya Ram (PW9), Expert of the Finger-print Bureau Phillaur, deposed that the document Exhibit PA and the specimen thumb-impressions (P11/A) were received in the Bureau on July 28, 1966 from the Tehsildar Garshankar. The disputed thumb-impressions on Exhibit PA were examined and compared with the specimens by a Committee of Experts of which witness was a member. On comparison, it was found that the disputed thumb-impression 'B' on Exhibit PA tallied with the left hand thumb-impression of Munshi Ram accused appearing on Exhibit P11/A. Witness, therefore, was of the opinion that the disputed thumb-impression 'B' was of Munshi Ram accused.

(29) With regard to the disputed impression 'A' and 'C', on Exhibit PA, this Expert, however, opined that they were too faint to permit of comparison in their rigid characteristic details. He, however, vouched that when the document, Exhibit PA, was received by him, the thumb-impression 'B' on it was capable of comparison. Witness stated that this thumb-impression had been subsequently tampered with by super-imposing another heavily inked thumb-impression on it. Shri Agya Ram was an Expert of experience and standing. He was an independent and disinterested witness, being in Government service. The Expert-testimony of the aforsaid witnesses had, therefore, conclusively established that the disputed thumb-impressions on Exhibit PA were those of the left-hand thumb of Munshi Ram accused and not of Sansara. Unlike the science of hand-writing, the science of identification of thumb-impressions is almost perfect.

(30) Another circumstance which strengthens the inference of guilt against the accused regarding this charge is, that at a late stage when the case was pending in preliminary enquiry before the Committing Magistrate, attempts to disfigure or mutilate the disputed thumb-impressions had been made so as to render them unfit for

comparison. The attempts, however, were made too late because earlier, the disputed thumb-impressions had been examined by the Experts and there photographs taken before the Tehsildar or subsequently before Shri A. C. Rampal Judicial Magistrate (CW2). The inference that would arise under Section 114, Evidence Act, is that this attempt had been made by the accused or on their behalf by somebody. In other words, it was clearly proved beyond doubt that Munshi Ram appellant, holding himself out as Sansara, had thumb-marked, in token of execution, the false power of attorney Exhibit PA, in favour of Kirpa Ram appellant. Mehar Chand and Milkhi Ram collaborated in the preparation of this false document. They fully knew that Munshi Ram, who had executed the document, was not Sansara alias Sansar Singh; and they acted fraudulently and dishonestly in attesting this power of attorney, Exhibit PA. All ingredients of the offence under Section 467, Penal Code, were thus fully made out against Munshi Ram, Kirpa Ram, Milkhi Ram and Mehar Chand appellants.

(31) As against Nasib Singh, the evidence relating to this charge was extremely slender. That is why the trial Judge did not convict him on this charge. For the above reasons we have no hesitation in holding that the aforesaid four appellants, viz. Munshi Ram, Kirpa Ram, Milkhi Ram and Mehar Chand, were rightly convicted by the trial Judge on the second charge.

(32) At this place, it will be convenient to take *charge No.* 4 which is connected with *charge No.* 5. This charge is against Munshi Ram, Mehar Chand and Milkhi Ram appellants. The allegation is that Munshi Ram personated as Sansara son of Arjan before Shri Amar Singh, Sub-Registrar, while Mehar Chand and Milkhi Ram identified him (Munshi Ram) as Sansara in proceedings before the Sub-Registrar. As already noticed, it was proved beyond doubt that Munshi Ram posing as Sansara had thumb-marked, in token of its execution, the false power of attorney, Exhibit PA, its copy and other connected records, in the register of the Petition-writer and the records of the Sub-Registrar.

(33) Shri Amar Singh (PW2), the then Sub-Registrar, testified that he had known Mehar Chand and Milkhi Ram appellants, who were the attesting witnesses of the document, Exhibit PA. He correctly identified Mehar Chand appellant in the trial Court, though he added that there was some doubt in his mind about the identity of Milkhi Ram. He further deposed that the person who had thumb-marked (executed) Exhibit PA, represented himself to be

Sansara. Shri Amar Singh categorically stated that he would not have registered Exhibit PA, if the attesting witnesses Mehar Chand and Milkhi Ram, had not identified the executant as Sansara. By the evidence of the Sub-Registrar, Shri Amar Singh, coupled with the evidence of the Experts and the other witnesses, it had been proved clearly, that Munshi Ram, Milkhi Ram and Mehar Chand had, by practising deception and fraud, induced the Sub-Registrar to endorse and register the forged document, Exhibit PA. The question is : whether these facts were sufficient to constitute the offence of 'cheating' as defined in Section 415, Indian Penal Code. Section 415 reads:

> "Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat".

From an analysis of the above definition, it follows that to bring, home the offence of cheating, the prosecution had to prove :

(1) that the accused deceived the Sub-Registrar, and thereby

(2) (a) fraudulently or dishonestly induced the Sub-Registrar.

(i) to deliver any property to *any person,* or

(ii) to consent that any person shall retain any property, or

(b) intentionally inducing the Sub-Registrar to do or omit to do anything which he would not do or omit if he were not so deceived and which act or omission caused or was likely to cause damage or harm to the Sub-Registrar in body, mind reputation or property.

(34) Ingredient (1), as already discussed, was established. What remains to be seen is: whether ingredients 2(a) or (b) or both, as set out above, had also been proved. As regards 2(a), it is to be

noted that the four accused (Munshi Ram, Milkhi Ram, Mehar Chand and Kirpa Ram) had the necessary intent to defraud within the meaning of Section 25, Penal Code which gives an imperfect definition of "fraudulently". In *Dr. Vimla* Vs. *Delhi Administration* (21), Suba Rao J., (as his Lordship then was) speaking for the Bench, said:—

> "The expression 'defraud' involves two elements, namely, deceit and injury to the person deceived. Injury is something other than economic loss, that is, deprivation of property, whether moveable or immoveable, or of money, and it will include any harm whatever caused to any person in body, mind or reputation or such others. In short, it is a non-economic or non-pecuniary loss. *A benefit or advantage* to the deceiver will almost always cause loss or detriment to the deceived. *Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied.*"

(35) Applying the above principles to the facts of the instant case, it is clear that the accused intended to get the advantage of the endorsement and certificate of the Sub-Registrar so as to enable them to use the false power of attorney, Exhibit PA, as an authentic document. Thus, the first element of the first part of the definition contained in 2(a) was satisfied.

(36) Further point to be determined is; whether the return of document, Exhibit PA, by the Sub-Registrar, after pending his endorsement and necessary certificate of registration, amounted to "delivery of property" within the contemplation of Section 415, Penal Code. The term 'property' in Section 415 has not been used in a narrow technical sense as something having pecuniary value. It has been used in its widest sense. The question whether a thing is or is not 'property', within the meaning of Section 415/420, Penal Code, does not necessarily depend on its having a money or market value. If a thing has some special value in the hands of the person or persons who may get possession of it as a result of the deception practised by him or them, it will be sufficient to bring it within the connotation of the term "property" occurring in Sections 415 and 420, Penal Code.

(21) A.I.R. 1968 S.C. 1572.

(37) Thus, in *Ishwari Lal Girdhari Lal Parekh* vs. *State of Maharashtra* (22), their Lordships held that an income-tax assessment order is 'property' and also a document constituting 'valuable security' within the meaning of Section 420 read with Sections 29 and 30 of the Penal Code.

(38) In *Deniel Hailey Walcott* Vs. *State,* (23), accused, an American national suppressing his real name and falsely impersonating and representing himself to be a British subject, induced the Police Sub-Inspector at Madras air-port to permit him to enter India and to return the false passport to the accused after signing and affixing his seal thereon in token of check. It was held that the passport was 'valuable security' even if the recognised right created by it was not enforceable at law, and that the accused was guilty *inter alia* of cheating under Sections 419/420, Penal Code.

(39) The Nagpur Court in *Local Government* Vs. Ganga Ram, (24), held that a certificate of having passed an examination was 'property' within the meaning of Section 415. Similarly, a ticket entitling its holder to enter an examination room; or a motor driving license was held to be 'property' (In Re: *Appasami,* (25). In *Bhagwan Dessey* Vs. *Siba Valji,* (26), it was held that a lottery ticket, however, valueless may be for the time being, is 'property' as the right to which may be vindicated by complaint or action. In *E. K. Krishnan,* (27), it was laid down that if a thing has got a potential value, as distinguished from its actual value, the potential value would be sufficient to make it 'property' within the meaning of Section 420, Penal Code.

(40) Coming to the instant case, the endorsement and certificate of the Sub-Registrar issued under the Registration Act had a special value for the accused-appellants. Section 60(2) of the Indian Registration Act, 1908, lays down that such a certificate signed and dated by the Registering officer shall be admissible for the purpose of proving that the document has been duly registered in manner

(22) A.I.R. 1969 S.C. 40.
(23) A.I,R. 1968 Mad. 349,
(24) A.I.R. 1922 Nag, 229.
(25) 12 Madras 151,
(26) 12 B.L.R. 76.
(27) A,I,R. 1948 Mad. 268.

provided by this Act, and that the facts mentioned in the endorsement referred to in Section 59 have occurred as therein mentioned. A certificate of registration requires no other proof and the evidence of the Registrar is not necessary. Its genuineness must be presumed under Section 79 of the Evidence Act. There can be no doubt that the return of the document Exhibit PA by the Sub-Registrar, after appending his necessary endorsement and certificate under the Registration Act, amounted to delivery of 'property' within the meaning of Section 415, Penal Code, as it had a special value in the hands of the accused-appellants, even though its value could not be measured in terms of money. Thus, all the ingredients of the first part of the definition of 'cheating'—i.e. Nos. (1) and 2(a)—had been proved in this case.

(41) This finding alone is sufficient to sustain the conviction under sections 419/420, Penal Code.

(42) Mr Nanda, learned counsel for the appellants, contends on the authority of a Division Bench of the Lahore High Court reported as: *Muhammad Bakhsh* v. *Emperor,* (28), that the act of the Sub-Registrar in returning the forged document after his endorsement and certificate of registration, was not likely to cause damage or harm to him in body, mind, reputation or property. On facts, that case is quite distinguishable from the one before us. There, one 'A' went to a Patwari and told him that 'B' had sold him some land. He produced 'M' who represented himself to be the alleged vendor 'B'. The patwari made an entry to this effect in the mutation register. The mutation was placed before the Naib Tehsildar and the same representation was repeated before him. It was held that the case did not fall within the purview of Section 420, Penal Code, as the statement made by Muhammad Bakhsh, who personated as Illahi Bakhsh, was merely an evidence of transaction which had *already been completed by means of an oral sale,* and, consequently, that statement of Muhammad Bakhsh before the Patwari and the Naib Tahsildar could not be regarded as a valuable security conveying any legal right. It was further held that Section 415 did not cover the case because the deception practised neither caused nor was likely to cause any damage in body, mind, reputation or property to the Naib Tehsildar who had been deceived inspite of his having acted conscientiously.

(43) It will be seen that in *Muhammad Bakhsh case,* there was no delivery of property by the Naib Tehsildar to the person who

(28) A.I.R. 1941 Lah. 460.

practised the deception. In the present case, as already discussed the endorsement and certificate of registration appended by the Sub-Registrar on the forged document, Exhibit PA, as a result of the deceit and fraud practised on him being of special value to the accused, was a 'property'. By making changes in the fiscal record, the Patwari and the Naib Tehsildar did not deliver any property to Muhammad Bakhsh. Those entries related only to an already completed oral scale.

(44) Further-more, the question as to whether anything done by a public servant as a result of deception practised on him is likely to cause damage or harm to him in body, mind, or reputation, is to be determined with reference to the facts and circumstances of the particular case before the Court. It is not a question of law which can be decided by mechanically adopting a view taken in a previous case on its own facts. It will be unnecessary to determine this question in the instant case as we have already held that the requirements of the first part of the definition of cheating have been fulfilled in the instant case.

(45) It is pertinent to mention here that the proof of the bare circumstances that Munshi Ram appellant had personated as Sansara and in such assumed character had presented the document, Exhibit PA, for registration and that Milkhi Ram and Mehar Chand appellants intentionally made a false statement before the Sub-Registrar that Munshi Ram was Sansara, had also brought home an offence to the accused under Section 82 of the Registration Act, which reads:

"Whoever—

(a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act; or

(b) intentionally delivers to a registering officer, in any proceeding under Section 19 or Section 21, a false copy or translation of a document, or a false copy of a map or plan; or

(c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or cause any summons or commission

to be issued, or does any other act in any proceeding or enquiry under this Act; or

(d) abets anything made punishable by this Act; shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both."

However, at the trial no specific charge was framed against them under Section 82 of the Registration Act; nor has the State, in the grounds of appeal, made the non-conviction of the accused under Section 82 of the Registration Act, a ground of grievance. Of course, in the course of arguments it has been urged by Mr. D. N. Rampal, the learned Assistant Advocate-General, that the conviction of the appellants can be altered to one under Section 82 *ibid.* In this connection, it is contended that the permission, under Section 82 was not obligatory. There is, however, a divergence of opinion on this question, whether permission for such prosecution is or is not necessary. We, therefore, think that it will not be proper, in this appeal, to record a conviction of the appellants under Section 82 of the Registration Act, also.

(46) Mr. Rampal, in the alternative, urged that the case be sent for retrial in respect of a charge under Section 82 of the Act, also. This case has been pending since long. Moreover, as already held, the offence of cheating under Sections 419 and 420 Penal Code had been made out against Munshi Ram, Mehar Chand and Milkhi Ram appellants. No useful purpose will, therefore, be served by framing fresh charges and remanding the case for retrial.

(47) It is rather surprising that the name of Kirpa Ram accused has been omitted from the array of the accused-persons against whom *charge No.* 4 was framed. It may be an accidental omission. However, the fact remains that the State has not preferred an appeal against this exclusion of Kirpa Ram accused from this charge. All these appellants, namely, Munshi Ram, Mehar Chand and Milkhi Ram (and Kirpa Ram who has not been charged) were acting in concert in pursuance of a pre-arranged plan. That is to say, all of them were equally liable by the operation of Section 34, Penal Code, for offences under Sections 419 and 420, Penal Code. We would, therefore, uphold the conviction and sentence of Munshi Ram, Milkhi Ram and Mehar Chand appellants under Sections 419 and 420, Penal Code.

(48) Now we take up *charge No.* 5 against Kirpa Ram. It is in evidence that Kirpa Ram, on the basis of the forged power of attorney, Exhibit PA, executed two sale-deeds, dated 19th August, 1963 and 2nd April, 1964, in respect of two parcels of the land of Sansara. These sales, on the basis of the power of attorney (Exhibit PA), were admitted by Kirpa Ram in his examination under section 342, Code of Criminal Procedure. His plea, however, was that the power of attorney, Exhibit PA, was genuine. As already discussed, it was proved that it was not so and that Exhibit PA was a forged document. This charge had also been proved against Kirpa Ram. We, therefore, uphold his conviction and sentence on this count.

(49) *Charge No.* 3 pertains to the forging of two pronotes, dated 14th December, 1962 and 31st January, 1963, and their use towards part-payment of the consideration of the sales effected by Kirpa Ram on the basis of the forged power of attorney. The pronote of Rs. 1,000 purports to have been jointly executed by Sansara and Nasib Singh. Munshi Ram appellant, personating as Sansara, had thumb-marked the pronote and the receipt, Exhibit PG. Mansa Ram, Deed-writer (PW6), testified that he had scribed this pronote on 14th December, 1962 at the instance of the persons who described themselves as Sansara son of Arjan Singh and Nasib Singh son of Barit Singh of village Sahibke. He, however, did not know these persons, personally. Witness made entry to this effect at No. 477 in his register (P20/A) which was thumb-marked by the alleged Sansara (at Exhibit P20) and signed by Nasib Singh. It may be recalled that the thumb-impression against this entry also, was mutilated and tampered with sometime when these records were in the court of the Committing Magistrate. Munshi Ram denied that he had thumb-marked the registers of Mansa Ram, Deed-writer (PW6). He also disowned his thumb-impressions at P/20 as also on Exhibit PG.

(50) Sarvshri Shanti Sarup Jain and Agya Ram Handwriting Experts, who compared the disputed thumb-impressions have testified that the disputed thumb-impressions were identical with the specimen impressions of Munshi Ram in material characteristics. The expert testimony thus established that this pronote (dated 14th December, 1962) and the accompanying receipt were not executed by Sansara but by Munshi Ram, personating as Sansara, along with Nasib Singh who, however, admitted his signatures on this document at P24 in Register P20/A respectively.

(51) The other pronote (dated 31st January, 1963) for Rs. 5,000 was also scribed by Mansa Ram (PW6) in favour of Karam Chand accused. Munshi Ram, personating as Sansara, had executed it by thumb-marking the same. Entry with regard to this pronote in the petition-writer's register (P. 21/A) is Exhibit P. 21. It also bears the thumb-impression of the person who executed the pronote. According to the prosecution, Munshi Ram had, personating as Sansara, thumb-marked this entry, in the register P21/A, as well. In his examination, Munshi Ram denied that he had thumb-marked. it. Shri Shanti Sarup Jain (PW4), Hand-writing Expert, after examining and comparing this thumb-impression at Exhibit P21, testified that it was that of Munshi Ram appellant. The Expert testimony has thus established that this false document had also been prepared by Munshi Ram. Thus the charge of forging these pronotes, which are valuable securities, was also brought home to Munshi Ram and Nasib Singh appellants and they were rightly convicted under Section 467, Penal Code.

(52) In the light of the above discussion, we would set aside the conviction of all the appellants under Section 120-B, Penal Code, for want of the necessary sanction under Section 196-A, Code of Criminal Procedure. For the same reasons, the State appeal (filed through Hari Chand complainant), *Criminal Appeal No.* 1271 *of* 1969, against the acquittal of Karam Chand on the charge under Section 120-B, Penal Code, must fail and is dismissed. The convictions and the sentences of the appellants on the remaining charges are maintained.

(53) In the result, the appeal of the convicts (Criminal Appeal No. 848 of 1969) is dismissed except to the extent indicated above.

S. C. MITAL, J. I agree.

N.K.S.

CIVIL MISCELLANEOUS

Before A. D. Koshal, J.

SHER SINGH,—*Petitioner.*

versus

THE ADDITIONAL DIRECTOR AND OTHERS,—*Respondents.*

Civil Writ No. 2167 of 1970.

September 6, 1971.

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act (L of 1948)—*Section* 42—*Impugned order passed in the absence*