of the rules of natural justice or violation of any principle of law which would be a good ground for our interference direct with the orders of the Board of Revenue in an appeal under Art. 136 of the Constitution.

In our opinion the appeal is without force and is dismissed with costs.

Appeal dismissed.

THAKUR NARWAR SINGH

v.

THE STATE OF MADHYA PRADESH

1962

February 2

(J.L. KAPUR, M. HIDAYATULLAH and RAGHUBAR DAYAL, JJ.)

Criminal Trial—Offences committed in Princely State prior to merger with Indian Dominion—If and when the Indian Penal Code applicable to such offences—Madhya Bharat Ordinance No. 1 of 1948—Part B States (Laws) Act, 1951 (3 of 1951) s. 6.

The appellant had committed certain offences in the State of Jhabua in 1948, when the Jhabua State was not a part of Dominion of India. He was tried in 1955 under the Indian Penal Code, for the offences committed in the erstwhile State of Jhabua in 1948. The question was whether the appellant could be tried in 1955 under the Indian Penal Code for offences committed in 1948 in the erstwhile State of Jhabusa.

The Raja of Jhabua State by a notification had made applicable amongst other laws the Penal Code of India to the State of Jhabua. After Jhabua State became part of the State of Madhya Bharat, the Rajpramukh by Ordinance No. 1 of 1948 continued the laws already in force in State of Jhabua. The Part B States (Laws) Act 1951 (3 of 1951) s. 6 while repealing all the existing laws of the State inter alia saved the laws dealing with any penality, forfeiture or punishment incurred in respect of any offence committed against any law repealed.

Held, in 1948, when the offences were committed the

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law in the State of Jhabua was the Indian Penal Code and that law continued by the Ordinance 1 of 1948 of the Rajpramukh and the repealing Act, in the Part B States (Laws) Act 1951, and any penalty incurred in respect of any offence committed in 1948 was punishable under the Indian Penal Code as applied to Jhabua State.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 130 of 1961.

Appeal by special leave from the judgment and order dated September 26, 1956, of the Madhya Pradesh High Court (Indore Bench) At Indore in Cr. A. No. 8 of 1956.

B.K. Banerjee and *Takur Das Taneja*, for the Appellant.

I.N. Shroff, for the respondent.

1962. February 2. The Judgment of the Court was delivered by

Kapur J.

KAPUR, J.—This appeal is directed against the judgment and order of the High Court of Madhya Bharat upholding the conviction of the appellant under ss. 380 and 451 of the Indian Penal Code. The question for decision is whether the appellant could be tried in 1955 under the Indian Penal Code for offences committed by him in 1948 when the State of Jhabua, in which the offences were committed, was not a part of Dominion of India and whether the State Penal Code did contain any provision corresponding to the Sections of the Indian Penal Code under which the appellant has been convicted.

In Jhabua State there is Thikana Jhaknawda which was a Jagir. Its thakur, Thakur Narayan Singh, died on November 11, 1945, without leaving a son. His two widows adopted Gajendrapal Singh, the second son of His Highness the Raja of Jnabua on July 15, 1946. Representations made by the appellant claiming the succession to the Thikana were rejected by His Highness. His further representation to the then Political Agent was also

rejected. It is alleged that the appellant entered in a conspiracy with about 150 persons and on January 18, 1948, forcibly entered the Thikana and took possession of it and remained in unlawful possession for about 7 months when he gave up the possession. The prosecution against him and 15 others under ss. 121, 295 and 455 of the Indian Penal Code started on October 7, 1955. He was convicted under ss. 451 and 380 of the Indian Penal Code but all the other accused persons were acquitted by the Sessions Judge. Against his conviction the appellant took an appeal to the High Court but his appeal was dismissed and he has come in appeal to this Court by Special Leave.

When the appeal was heard on January 9, 1962, the question whether the appellant could be tried in 1955 under the Indian Penal Code for offences committed in 1948 in the erstwhile State of Jhabua and whether there were similar provisions in the penal laws of that State at the time of the commission of the offences was raised. As this question had not been raised in any of the courts below we adjourned the hearing of the appeal to enable the parties to place the necessary material before us. The argument was confined to this question only as we did not find any substance in any of the other points in the appeal.

According to the Report of the Council of Administration on the administration of Jhabua State for 1935-41 p.48, the then Raja of Jhabua State by notification applied amongst other laws the Penal Code of India to the State of Jhabua. By Ordinance 1 of 1948 issued by the Rajapramukh after the State of Jhabua became part of the State of Madhya Bharat which was replaced by Regulation of Government Act (Act 14 of 1948) the laws already in force in Jhabua were continued in that part of the State of Madhya Bharat. On February 22, 1951, the Part B States (Laws) Act, 1951, (Act

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III of 1951) was enacted. Section 6 of that Act relates to repeals and savings. It provided :

> "If immediately before the appointed day, there is in force in any Part B State any law corresponding to any of the Acts or Ordinances now extended to that State, that law shall, save as otherwise expressly provided in this Act, stand repealed :
>
> Provided that the repeal shall not affect,
>
> (a) the previous operation of any law so repealed or.....
>
> (b) any right, privilege, obligation or liability acquired, accrued, or incurred, under any law so repealed
>
> c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed.....
>
> and any such.....remedy may be..... enforced.....and any such penalty..... may be imposed as if this Act had not been passed."

Thus it is clear that in 1948, when the offences were committed by the appellant, the law in the State of Jhabua was the Indian Penal Code and that law was continued by the Ordinance of the Rajpramukh and the Repealing Act and any penalty incurred in respect of any offence committed in 1948 is punishable under the Indian Penal Code as applied to Jhabua State.

This appeal is therefore without force and is dismissed.

Appeal dismissed.