

REG. V. TUKIA' valad GA'NJI.

1863.
July 8.*Magistrate—Sentence—Power of Magistrate to vary Sentence.*

A Magistrate has no authority to vary any sentence he may have once passed on a prisoner.

THE prisoner in this case was charged before G. F. Sheppard, a Subordinate Magistrate exercising the full powers of a Magistrate, under Sec. 380 of the Indian Penal Code, with having committed the offence of theft in a dwelling-house.

The Subordinate Magistrate found the charge proved, and sentenced the prisoner, who was quite a child, to imprisonment in a reformatory for the term of one year, under Sec. 433 of the Criminal Procedure Code. Finding, however, on reference to the officer in charge of the Sadr Station at Dhuliá, that no instructions had up to that time been received by the Magistrate of Khándesh from the executive government relative to committals to reformatories, the Subordinate Magistrate reconsidered his order, and sentenced the prisoner to two months' simple imprisonment in the ordinary jail.

The case coming to the notice of the Magistrate of Khándesh, that officer referred it for the orders of the High Court, on the ground that the Subordinate Magistrate had acted illegally in reversing his own first order.

PER CURIAM (SAUSSE, C.J., NEWTON and FORBES, JJ.):—A Magistrate has no power to reverse or alter his own sentence when it has been finally recorded. The High Court alone is invested with such authority, under Sec. 434 of the Criminal Procedure Code. The sentence must be annulled, and the Magistrate be directed to pass a new sentence according to law.