

1863.
July 1.

REG. V. 'CHANVIOVA' KOM SHIDRA'M SHETTI.

Ind. Pen. Code, Sec. 309—Punishment—Imprisonment and Fine.

A prisoner found guilty, under Sec. 309 of the Indian Penal Code, of an attempt to commit suicide must be sentenced to some imprisonment, and not merely to payment of a fine.

THE prisoner in this case was charged under Sec. 309 of the Indian Penal Code, with attempting to commit suicide by throwing herself into a river, and, on trial before A. C. Jervoise, Full Power Magistrate at Ratahulli, in the Dhárwár Zillá, confessed her guilt, which she endeavoured to excuse on the plea that at the time she was suffering from extreme bodily affliction.

The Assistant Magistrate who tried the case, being of opinion that a light punishment would meet the justice of the case, sentenced the prisoner to pay a fine of Rs. 25, under Sec. 309 of the Indian Penal Code, or in default to undergo simple imprisonment for a period of two months.

The case having been entered in the Magistrate's Monthly Return submitted to the High Court, the Judges called for the papers, and a Full Court, consisting of SAUSSE, C.J., FORBES and NEWTON, JJ., passed the following resolution :—

The words of the section are, that a person who attempts to commit suicide "shall be punished with simple imprisonment for a term which may extend to a year, and shall also be liable to fine."

Some imprisonment was essential to comply with the legal requirements of the punishment for this offence. The Magistrate has thought proper to inflict a fine without any imprisonment.

The sentence is not according to law ; it must be annulled, the fine returned, and the Magistrate be directed to pass a new sentence, of which imprisonment shall be either the whole or a part ; any term of imprisonment, however short, will satisfy the legal requirements of the sentence.

Sentence annulled.