

1863.

Aug. 6.

REG. V. RA'MA' bin RABHA'JI.

Fine—Imprisonment and Fine—Ind. Pen. Code, Sec. 211.

A prisoner convicted under the second clause of Sec. 211 of the Indian Penal Code should be sentenced to imprisonment, with or without fine, and not to fine alone.

THE charge against the accused in this case was that he had, with intent to injure one Vishṇu bin Hanmantá, presented a petition to the Police *Amaldár* of Shivgám, charging the said Vishṇu bin Hanmantá with having stolen from his house five of his cattle, an offence punishable with imprisonment for seven years, well knowing at the time that there was no just or lawful ground for such charge, and thereby committed an offence defined in and punishable under Sec. 211 of the Indian Penal Code.

W. H. Newnham, the Assistant Judge of Ahmednagar, found the prisoner guilty as charged, and sentenced him to pay a fine, or in default to suffer a term of imprisonment; and the case having been entered in the Ahmednagar Session Judge's Monthly Return, the case was called for by the High Court, and in remanding it to the Session Judge the following minute was made:—

The Court (FORBES and WARDEN, JJ.) annuls the sentence, and directs the case to be returned to the Session Judge, in order that a legal sentence may be passed, including imprisonment.

Aug. 6.

Special Appeal No. 343 of 1862.

TRIBHUVANDA'S JAGJIVANDA'S.....*Appellant.*
MOTILA'L RA'MDA'S.....*Respondent.*

Agent—Wagering Contract entered into by Agent—Act XXI. of 1848.

An agent employed to effect a wagering contract is entitled to recover from his principal money paid on his account in respect thereof, his authority not having been revoked. The claim is not affected by Act XXI. of 1848.*

THIS was an action in which the plaintiff sought to recover from the defendant the sum of Rs. 999-15-11, alleged to be the balance due to the plaintiff on an account current.

* NOTE.—See Act (Bombay) III. of 1865.