

REG. V. BAHIRJI BIN KRISHNA'JI.

1863.
Aug. 12.*Fine—Imprisonment and Fine—Ind. Pen. Code—Sec. 344.*

Fine alone is not a legal sentence for a prisoner convicted under Sec. 344 of the Indian Penal Code.

THE prisoner in this case having been charged, under Sec. 344 of the Indian Penal Code, before J. MacFarlan, F. P. Magistrate, with having kept a man in wrongful confinement for ten or more days, and having been convicted of the offence, was sentenced to pay a fine of fifty rupees, or in default to suffer one month's rigorous imprisonment.

The case was called for by the High Court on the Magistrate's Monthly Return, and the following order passed therein:—

PER CURIAM (NEWTON and TUCKER, JJ.):—The sentence is annulled, and the case remanded in order that a legal sentence may be passed, including imprisonment, of which a momentary term will satisfy the requirements of the law.

Sentence annulled.

Special Appeal No. 92 of 1863.

Aug. 18.

GUNDO MAHA'DEV *Appellant.*

RA'MBHAT BIN BHA'U BHAT *Respondent.*

Hindú Law—Mortgage of Undivided Share of Family Estate—Manager's Power to mortgage Family Estate.

A member of an undivided Hindú family has a right to mortgage his own share of the family estate, and, if he be acting as representative and manager of the undivided family, to mortgage the interests of the other members of the family therein on any common family necessity, or for the common benefit and use of the undivided family.

THIS was an action by Gundo Mahádev to recover the sum of Rs. 267-7-6, alleged to be due on a mortgage bond dated 9th January 1860, and executed by Narsi Bhat, a member of an undivided Hindú family. The property mortgaged consisted of a house, and the money sued for was sought to be realised by the sale of the mortgaged property, and, if the proceeds proved inadequate for that purpose, from Narsi Bhat personally. The action in the first instance was against Narsi Bhat alone, but Rám Bhat was afterwards made a defendant.