

1863.

*In re*  
GUBA'PPA'  
RACHA'PPA'

terpretation of the law, some remedy might be sought where-  
by hardships of the kind in question might be avoided.

On subsequent inquiry, by the High Court, it appeared that Fakiráppá, the father of the judgment debtor, in execution of the decree against whom the house in question had been sold, objected to the delivery of the same to the purchaser, on the ground that the house was ancestral property, and that the debt contracted by his son was not for the benefit of the family.

On consideration, the Judges of the High Court (FORBES and WESTROPP, JJ.) made the following minute, to be communicated to the District Judge:—

The question which constitutes the subject of your letter is one which may be treated as falling within Sec. 11 of Act XXIII. of 1861, and the order passed by the Munsif of Savandatti is, therefore, open to appeal.

### Crown Cases.

Nov. 13.

#### REG. v. BYHÁ' valad SURJIM and others.

*Practice—Security for Good Behaviour—Course to be pursued by Session Judge—Crim. Proc. Code, Sec. 195.*

If a Session Judge be of opinion that a person acquitted by him ought to give security for future good behaviour, he should discharge him, and inform the Magistrate of his opinion, that security should be taken, leaving the Magistrate to take the necessary steps for that purpose, and the Session Judge should not send the party in custody to the Magistrate.

A separate note of each witness's deposition is required to be taken by Sec. 195 of the Code of Criminal Procedure, which is not satisfied by a statement that a witness "deposes as last witness."

**T**HE accused were charged before C. Walter, Session Judge of Khándesh, with the murder of a Hindú woman named Bani. Prisoner Byhá admitted his guilt, and stated that he had been hired to take a part in the murder for a reward of Rupees twenty, but with regard to his accomplices he varied his statement from time to time. The Judge came to the conclusion that he murdered deceased for her jewels, and that there were no extenuating circumstances that could be pleaded in his favour.

With reference to the case against the second prisoner, Pushiá, the Session Judge remarked that, although there was no doubt he also took part in the murder, there was no legal

evidence to convict him, and that the evidence of his (prisoner's) wife, who only deposed to the receipt by him of the property of which the murdered woman had been plundered, could not by law be used against him.

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The case against the third prisoner entirely broke down.

The Session Judge convicted Byhá, and sentenced him to death, and acquitted the two others, but at the same time forwarded Pushiá to the Magistrate, stating, "though acquitted, however, he is not discharged, for the finding of the jewels is a fact so connecting him with the crime, that the Court considers that, after due inquiry, he should be bound over in ample security for future good conduct."

The case came before the High Court (present ERSKINE, NEWTON, and WESTROPP, JJ.) in due course, and the following order was passed:—

The Court confirms the sentence of death passed on the prisoner Byhá. The Session Judge, having recorded a judgment of acquittal in the case of the accused Pushiá, should have ordered his discharge. He might, if he thought it necessary, have brought to the notice of the Magistrate his (the Judge's) opinion that security for Pushiá's good behaviour should be taken.

Inform the Session Judge also that, under Sec. 195 (of the Code of Criminal Procedure), he is bound to take a note of each witness's deposition as the examination proceeds, and that this is not complied with by a mere statement that a witness deposes as the last.

REG. V. GAPA'U KOM KUSA'JI.

Nov. 13.

*Receipt—Refusal to give Stamped Receipt—False Charge.*

The refusal to give a stamped receipt for money paid not being in itself an offence at law, to make a false charge against a party of refusing to give such a stamped receipt is not an indictable offence.

THIS case was decided by G. M. Macpherson, F. P. Magistrate at Ahmednagar. The charge against the prisoner was, that she, "with intent to injure Ratanchand Márvádi, made a false charge against him of refusing