

The preliminary points being thus determined, the Court proceeds to deal with this special appeal on its merits, and finds that the Courts below were in error in holding that the *miráspatra* or grant was issued by the Mámlatdár with authority, on the ground that he was empowered to issue it by the order from H. H. therein specified, whereas the said order (exhibit 63) had been superseded by a later one (exhibit 62), likewise produced by the plaintiff, the effect of which was to leave the Mámlatdár without authority.

The Court accordingly reverses the decrees of the Courts below, and throws out the original claim with costs.

Decree reversed.

1863.

SAKHA RAM
VITHOJISADA SHIV
SAYAJI.

REG. V. MIR SA'HEB KA'SSAMI'A and another.

Nov. 25.

Subordinate Magistrate—Jurisdiction—Act III. of 1857, Sec. 13.

The repealing section of Act XVII. of 1862 does not affect the power of a Subordinate Magistrate under Sec. 13 of Act III. of 1857.

THE accused in this case were charged—Mir Sáheb, under Sec. 323 of the Penal Code, with “voluntarily causing hurt,” and both accused, under Sec. 13, Act III. of 1857, with “forcibly carrying away stray cattle from a cattle-pound” at Jambúsar, in the Broach District.

The cases were tried by the Second Class Subordinate Magistrate at Jambúsar; and the prisoners, being convicted as charged, were sentenced, Mir Sáheb to twenty-five days', and the other prisoner to twenty days' simple imprisonment.

An appeal was entered against these convictions and sentences to the Joint Magistrate of the District, who annulled the same, under Sec. 427 of the Criminal Procedure Code, as he considered that Sec. 13, Act III. of 1857 had been repealed by Act XVII. of 1862, but did not consider it necessary to direct the re-trial of the case, as the prisoners had nearly completed their term of imprisonment when the appeal was decided.

1868.
 RES.
 v.
 MIR SA'HEB
 KA'SAMI'A
 et al.

The case was called for by the High Court (present WESTROPP and TUCKER, JJ.), as it seemed doubtful if the view taken by the Magistrate on appeal was correct, and the following order was thereupon made :—

The Magistrate to be informed that the repealing section of Act XVII. of 1862 does not affect the power of a Subordinate Magistrate under Sec. 13 of Act III. of 1857. Even if this were otherwise, the repeal of Sec. 13 of Act III. of 1857 would not have justified the Joint Magistrate in annulling a conviction under Sec. 323 of the Penal Code. The Court, however, does not contemplate the institution of any further proceedings against the accused in this case.

Nov. 25.

REG. v. ANTA' bin DA'DOBA' and another.

Grievous Hurt—Committal to Session Court.

A prisoner charged with the offence of causing "grievous hurt" should be committed for trial to the Session Court.

What amounts to grievous hurt.

THIS case was called for on the return submitted by the Magistrate of North Cánará.

The prisoners were charged, under Secs. 320 and 324 of the Indian Penal Code, with "causing grievous hurt by dangerous means, in having tied the hands and feet of complainant, and hung her therewith to the ceiling, and branded her face."

The case was tried by F. P. Bartholomew, a First Class Subordinate Magistrate; exercising the full powers of a Magistrate at Sadáshivgad, who recorded the following finding :—

"Accused, Esú and Antá, both acknowledge having done the act, but urge it was done as a punishment to the girl, and not with the intention of hurting her.

"Antá is found guilty, under Sec. 324 of Act XLV. of 1860, of causing hurt to Lakshmi, and sentenced, under Sec. 324 of Act XLV. of 1860, to rigorous imprisonment for six calendar months.

"Esú is also found guilty, and sentenced, under Sec. 324 of Act XLV. of 1860, to simple imprisonment for two calendar months."