

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."

It appeared in evidence in this case that the prosecutrix, a girl of tender years, had been suspended from the ceiling of a room by her hands and feet, and had, while in that position, been beaten by the prisoner Antá with a cane, and both her cheeks branded with a hot iron by the female prisoner, Esú.

1863.
REG.
v.
ANTÁ
DA'DOBA'
et al.

The High Court (WESTROPP and TUCKER, JJ.) made the following order :—

If the scars on the complainant's face were of a character to cause any permanent disfigurement, the offence amounted to grievous hurt, and the accused ought to have been committed for trial to the Session Court.

The Subordinate Magistrate should be informed that if Sec. 320 of the Penal Code, which he quoted in support of the charge, were applicable to the case, it would be beyond his jurisdiction, and that the Court considers the punishment inflicted, especially in the case of the female prisoner, Esú, to have been wholly inadequate.

In the matter of the petition of EKNA'TH bin MA'DOBA'.

Dec. 2.

Inquiry by Shástri of Court—Civ. Proc. Code, Secs. 305 and 306—Reg. VI. of 1827.

Inquiry under Secs. 305 and 306 of the Civil Procedure Code should be made by the Judge himself, and not by the Shástri of the Court.

Reg. VI. of 1827 is repealed by Act X. of 1861.

EKNA'TH BIN MA'DOBA' presented, under date the 3rd of September 1863, a petition to the Judge of Solápur, the Honorable G. A. Hobart, praying for permission to sue as a pauper. The petition was set down for inquiry on the 1st of October 1863, on which date it was referred to the Shástri of the Court for investigation, the defendant being in the mean while allowed fifteen days' time to produce his evidence in disproof of the petitioner's pauperism. Before the Shástri had returned the case, with his report thereon, the Judge, on the 3rd of October, made an order dismissing the petition.

Vishvanáth Náráyan Mandlik, for the petitioner, submitted the case to the High Court, under Sec. 5 of Reg. II. of 1827, and observed that the Judge had passed an order in this case when it was not before him, but had stood adjourned pending the Shástri's report.