

was given, the consequence of which was that the boat was upset and about seven persons were drowned."

The accused were convicted, and sentenced each to pay a fine of Rs. 25, commutable to one month's imprisonment.

The monthly Return of Criminal Cases for September 1863 of the Magistrate of Khedá being received, the proceedings in this case were sent for, and the following resolution was passed by FORBES and COUCH, JJ. :—

The Court annuls the conviction and sentence under Sec. 336 of the Penal Code, which was not properly applicable to the offence committed by the accused, and directs that they be charged and tried under Sec. 282 of the Penal Code.

Conviction and sentence annulled.

[ANONYMOUS.]

Recognisance Bond—Penalty—Mitigation of Penalty by Magistrate.

Jan. 11.

A Magistrate has not power to mitigate the penalty entered in a recognisance bond. Such bond must be enforced to its full amount, unless Government forego a portion of the penalty.

THIS was a reference by the Acting Magistrate of Dhárwár. The Second Class Subordinate Magistrate of Hubli had directed the payment of only a part of the penalty mentioned in a recognisance bond, which had become forfeited, to be enforced. The Acting Magistrate requested the instructions of the Court as to whether or not the full penalty to which parties bind themselves can be reduced at discretion, in case of forfeitures, by any Magistrate within the extent of his jurisdiction.

The Court (present FORBES and COUCH, JJ.) passed the following resolution :—The order mitigating the penalty is annulled, as the Second Class Subordinate Magistrate had not the authority to make it.

The Magistrate is to be informed that he had not the above power, and that the recognisances, therefore, must be enforced to the full amount, unless Government forego any portion of the penalties, a course which will be recommended to Government by this Court, in consequence of the Second Class Subordinate Magistrate having led the accused to suppose that the full penalties would not be enforced.

1864.

REG.

v.

KHODA JAGTA
et al.