

the Jury so appointed shall not decide and report within a reasonable time, to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate; and if, from any of the above causes, no decision be made by the Jury, the order of the Magistrate shall be carried into effect, as hereinafter provided."

" 312. If in a case referred to a Jury, the Jury shall find that the order of the Magistrate is reasonable and proper, the Magistrate shall give notice thereof to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned, within a time to be fixed therein, under the penalty provided by the Indian Penal Code as aforesaid. If such latter order shall not be obeyed, the Magistrate may proceed as in the last preceding section.

" 313. If the person to whom the order of the Magistrate is issued shall appear and show cause against the same, and shall satisfy the Magistrate that the order is not reasonable and proper, no further proceedings shall be taken in the case."

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REG. V. VINA'YAK TRIMBAK *et al.*

June 27.

*Conviction of several offences—Sentence—Crim. Proc. Code,  
Secs. 46, 426, and 434.*

Two prisoners, having been convicted by an Assistant Session Judge of forgery and other offences, were sentenced each to an aggregate amount of punishment, which the Court was competent to inflict, but without specifying the several penalties awarded for each offence.

On a reference by the Session Judge, under Sec. 434 of the Criminal Procedure Code:—

*Held* that it was an irregularity, on the part of the Assistant Session Judge, not to pass a separate sentence under each independent head of the charge; but that it was not an error or defect in consequence of which the High Court could reverse or alter the sentence, under Sec. 426 of the Code.

THE prisoners were convicted, at one time, by N. M. W. Daniell, Assistant Session Judge of Puná, of forgery and other offences punishable under the Indian Penal Code; and sentenced, the first to rigorous imprisonment for three years and to pay a fine of Rs. 500, and in default to suffer further imprisonment for one year; and the second prisoner to rigorous imprisonment for two years; the amount of punishment awarded, in each case, being stated only in the aggregate; without specifying "the several penalties," to which the Court should have sentenced each person, under Sec. 46 of the Criminal Procedure Code, for the offences of which he had been convicted.

1866.  
REG.  
v.  
DALSUKRA'M  
HARIBHA'I.

1866.  
REG.  
v.  
VINAYAK  
TRIMBAK  
et al.

The proceedings were referred, for the orders of the High Court, by the Session Judge, F. Lloyd, with the following remarks :—

“On reading over the proceedings, I find the accused Vináyak has been convicted of three distinct offences ; and, under Sec. 46 of the Criminal Procedure Code (*vide* Circular No. 449 of 1866 from the High Court), it was imperative on the Assistant Session Judge to pass a separate sentence on each independent head of the charge.

“I am of opinion, that it is competent to this court to direct the Assistant Session Judge to pass a legal sentence in the case of the said Vináyak, and then to send up the case for confirmation. But the sentence passed against the other prisoner is also, for the same reasons, illegal ; and as the punishment awarded is within the jurisdiction of the Assistant Session Judge, and no appeal has been preferred against it, this court has no power to interfere, as far as the sentence against him is concerned.

“The proper course, therefore, appears to be, to refer the proceedings for the orders of the High Court, under Sec. 434 of the Criminal Procedure Code.”

PER CURIAM (COUCH, C.J., and NEWTON, J.):—The Court notice that it was an irregularity on the part of the Assistant Session Judge not to pass a separate sentence on each independent head of the charge ; but it is not an error or defect in consequence of which this court can reverse or alter the sentence : Sec. 426 of the Criminal Procedure Code.

*No order.*

June 27

REG. V. NA'RA'YAN KRISHNA *et al.*

*Mischief—Theft—Ind. Pen. Code, Secs. 379 and 425.*

*Held* that it was not illegal to convict prisoners of mischief, as well as of theft ; the offences charged being that they had cut down Government trees without leave, and appropriated them.

THE prisoners had cleared a piece of Government land, cutting down and appropriating the trees thereon without permission. They were, therefore, charged and convicted by Shámráy Ganesh, Mahálkari of A'nkola, and