

1864.  
March 16.

REG. v. VITHOJI' valad A'BBA'.

THE prisoner was convicted by A. St. J. Richardson, Session Judge of Ahmednagar, of the offence of accepting a gratification as Police Pátíl, under Sec. 161 of the Penal Code; and sentenced to two years' rigorous imprisonment.

The case was heard on the 16th of March 1864, before COUCH and NEWTON, JJ.

*Nánabhái Haridás*, for the prisoner :—The examination of the prisoner before the Magistrate was not taken down in the form of question and answer, as required by Sec. 205 of the Code of Criminal Procedure, and was, therefore, inadmissible as evidence at the trial, under Sec. 366. If that examination be put aside, the other evidence is insufficient to support the charge.

PER CURIAM :—The examination under Sec. 205, to be admissible as evidence under Sec. 366, must be taken in the form of question and answer, and certified as required in Sec. 205. But if it be not so taken, as in the present case, the Court can order the confession to be proved by the evidence of the writer of the examination, or other person who was present.

In this case, however, the evidence is sufficient without the inadmissible examination, and, under Secs. 426 and 439, the admission of the examination as evidence does not invalidate the trial and conviction.

*Petition rejected.*

August 18.

REG. v. GANU' BA'PÙ'.

THE prisoner was convicted of murder by A. St. J. Richardson, and sentenced to death, subject to the confirmation of the High Court, under Sec. 380 of the Criminal Procedure Code.

The case was heard on the 20th of July 1864, before ARNOULD, Acting C.J., NEWTON and JANA'RDAN, JJ.

PER CURIAM :—The Session Judge is directed to take any evidence that may be forthcoming to prove the alleged confession before the Magistrate F. P., which as recorded was inadmissible in evidence, not being taken as prescribed in Sec. 205 of the Code of Criminal Procedure ; and to certify the result of such inquiry and evidence to this Court.

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18th August. Evidence of the confession having been taken by the Session Judge and certified as directed, the case was resumed for final disposal this day ; when the Court confirmed the conviction and the sentence of death which had been passed.

*Conviction and sentence confirmed.*