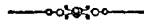


1866.
June 13.
Referred Case.

power, under Sec. 404, to order that the case be committed for trial before the Court of Session, or to make any other order that to the said Court may seem right."

The case came on for hearing this day before COUCH, C. J., and NEWTON, J.

PER CURIAM :—The Court annuls the conviction and sentence, as the Magistrate, F. P., had no jurisdiction to convict of an offence punishable under Sec. 50 of Act XVII. of 1854.



REG. v. LAKSHMAN BA'LA'JI'.

Indian Railway Act (No. XVIII.) of 1854—Jurisdiction.

Held that a conviction by a Magistrate, F. P., under Sec. 26 of the Railway Act, was illegal for want of jurisdiction.

1866.
June 13.
Referred Case.

THE prisoner was convicted in the month of March 1866 by Lieutenant H. E. Reeves, Magistrate, F. P., in the Tháná District, under Sec. 26 of the Railway Act (No. XVIII.) of 1854, of the offence of wilfully omitting to do what he was legally bound to do; and sentenced to suffer two months' rigorous imprisonment, and to pay a fine of Rs. 50, or, in default, to suffer one month's further rigorous imprisonment.

The record and proceedings were forwarded to the High Court on the 23rd of May by R. H. Pinhey, Session Judge of the Konkan, under Sec. 434 of the Criminal Procedure Code, with the following remarks :—

"The record and proceedings in this case were called for on a review of the Magistrate's monthly return. The conviction and sentence appear to me to be illegal.

"By Sec. 30 of the Railway Act (No. XVIII.) of 1854 all offences punishable with fine only are punishable by a Magistrate (*i. e.*, District Magistrate) or person lawfully exercising the powers of a Magistrate (*i. e.*, a Magistrate with F. P.).

"The offences defined in the latter part of Sec. 27 and in Sec. 28 of the Railway Act are punishable with imprison-

ment or fine; and they are also by the terms of these sections punishable by a Magistrate.

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“But a Magistrate is nowhere given final jurisdiction over an offence punishable under Secs. 25 and 26 of the Railway Act; and, therefore, I am of opinion that the conviction and sentence recorded by the F. P. Magistrate in this case are illegal.”

The case came on for hearing this day before COUCH, C.J., and NEWTON, J.

PER CURIAM:—The Court annuls the conviction and sentence, as the Magistrate, F. P., had no jurisdiction to convict of an offence punishable under Sec. 26 of Act XVIII. of 1854.

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REG. v. PRABHA'KAR N. SOMAN.

*Bombay Ferries' Act, No. XXXV. of 1850—“Magistrate of the zilla”
—Reg. XII. of 1827—Jurisdiction.*

A conviction by a Full Power Magistrate under Sec. 9 of the Bombay Ferries' Act, annulled for want of jurisdiction; as the “Magistrate of the zillah” alone was empowered by Sec. 16 summarily to hear and determine all offences against the Act.

THIS case was referred for the orders of the Court, under Sec. 434 of the Code of Criminal Procedure, by R. H. Pinhey, Session Judge of the Konkan, with the following remarks:—

1866.
July 11.
Referred Case.

“The accused is reported as having been charged with having crossed at a public ferry and, ‘with intent of avoiding payment, fraudulently passed through the toll-station without paying the toll;’ and sentenced by Mr. John Elphinstone, Magistrate F. P. in the Tháná District, to pay a penalty of Rs. 20, under Sec. 9 of Act XXXV. of 1850.

“I am of opinion that the conviction and sentence are illegal: as, by Sec. 17, all offences against the ‘Act shall be summarily heard and determined by the Magistrate of the zillah; within the limits of which the same shall have been committed;’ and, therefore, the F. P. Magistrate had no jurisdiction to try the case.