

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

1866.
June 13.
Referred Case.

“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.

1866.
July 11.
Referred Case.

“The denomination of ‘Zillah Magistrate’ appears from Sec. I. and Sec. III. Cl. 1 of Reg. XII. of 1827 to apply only to the ‘Collector of each Zillah.’ It is true that those sections have been partially repealed [so far as they provide for the punishment of offences] by Act XVII. of 1862; but that does not, I think, affect the meaning to be put on the term ‘Magistrate of the Zillah’ in Sec. 16 of the Bombay Ferries’ Act.”

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

PER CURIAM:—The Court annuls the conviction and sentence, and order the fine to be returned if paid: and the Magistrate of the district has authority to entertain any complaint which may be preferred to him against the accused.

Conviction and sentence annulled.

REG. v. JÍVAN USMA'N and others.

Bombay Cotton Frauds' Act, No. IX. of 1863—Jurisdiction.

Convictions under Sec. 2 of the Act, and sentences of one month's rigorous imprisonment, as well as an order for confiscation of cotton, set aside for want of evidence to show that the Deputy Magistrate who tried the case had jurisdiction in the matter over the persons convicted; and for want of evidence of fraud.

As to whether, notwithstanding Sec. 411 of the Criminal Procedure Code, a regular appeal lies in such case—*Quare.*

1866.
July 5.
Crim. Review.

THE record and proceedings in this case had been called for, under Sec. 404 of the Code of Criminal Procedure.

Purushottam Nathu, Dharamdás Girdhar and Jívan Usmán were charged before Kuvarjí Kávasjí, Deputy Magistrate of Broach, with “fraudulently mixing cotton of different varieties in one bale,” an offence punishable under Sec. 2 of Bombay Act, No. IX. of 1863.

Nine bales of mixed cotton were found in the possession of accused No. 1 at Broach; and, as he stated, had been sent to him for the purpose of being sold by accused Nos. 2