

## REG. V. YELLA' valad PARSHIA'.

*Whipping Act, No. VI. of 1864—Punishment for Attempts—Ind. Pen. Code, Sec. 511.*

In the case of a conviction of attempting to commit housebreaking by night, with intent to commit theft, a sentence of whipping was annulled as being illegal.

THE prisoner was convicted by J. F. Armstrong, District Magistrate of Kaládgi, of attempting to commit housebreaking by night, with intent to commit theft; and sentenced to suffer eighteen months' rigorous imprisonment, and to receive fifty lashes, under Secs. 457 and 511 of the Indian Penal Code, and Sec. 3 of Act VI. of 1864.

1866.  
November 21.  
Crim. Review.

The record and proceedings were reviewed this day by COUCH, C.J., and NEWTON, J.

PER CURIAM:—The Court annuls the sentence of whipping; as the law does not authorise the infliction of that punishment for the offence of which the prisoner has been convicted.

*Sentence of whipping annulled.*

NOTE.—By Sec. 511 of the Ind. Pen. Code, “ whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt, &c. shall, where no express provision, &c., be punished with transportation or imprisonment of any description provided for the offence, for a term,” &c. Under the Whipping Act whoever *commits* any of the offences specified in Sec. 2 may be punished with whipping *in lieu of* any punishment to which he is liable under the Penal Code, and in case of previous conviction of the same offence *in lieu of* or *in addition to* such other punishment: Sec. 3; and whoever, having been previously convicted of any of the offences specified in Sec. 4, shall be again convicted of the same offence, shall be liable to whipping *in addition to* any other punishment provided by the Penal Code. “ *Attempting to commit robbery* ” is the only attempt included among the offences specified in Sec. 4.—ED.