

tence appeared to be very inadequate to the offence charged; and were now referred, under Sec. 434 of the Criminal Procedure Code, for the orders of the High Court, with a view to the reversal of the conviction and sentence, with the following remarks:—

1867.
March 6.
Referred Case.

“By the definition of cheating given in Sec. 415 of the Indian Penal Code it is necessary that the offender should do something fraudulently or dishonestly, or with the intention to deceive, if he be convicted of cheating. I am unable to see, from the record and proceedings in this case, that the accused did anything fraudulently, dishonestly, or with the intention to deceive. Yesu gave accused four annas with which to buy a stamp for him (Yesu); and when the stamp vendor asked accused his name, he gave Yesu's instead of his own,—as it appears to me from stupidity, and not with any wish to deceive.”

The case was heard by COUCH, C.J., and NEWTON, J.

PER CURIAM:—The Session Judge should inform the Magistrate that the offence was not cheating by personation, but an offence under Sec. 177 of the Indian Penal Code; but Sec. 426 of the Code of Criminal Procedure makes it unnecessary for the Court to interfere.

No order.

Reg. v. SAMSEN BA'BA'JI.

Crim. Proc. Code, Sec. 44—Compensation.

On a reference by a Session Judge, an order made by a Magistrate under Sec. 44 of the Criminal Procedure Code—awarding compensation to the complainant out of a fine inflicted for causing hurt—reversed: as there was no evidence on the record to show that “loss” was caused, or that “any special damage of a pecuniary nature resulted” to the complainant by the offence.

THE accused was convicted, in the month of January 1867, by W. M. Salmon, Magistrate F. P. in the Tháná District, of the offence of voluntarily causing hurt; and sentenced to pay a fine of Rs. 50, or in default to suffer two months' simple imprisonment, under Sec. 321 of the Indian

May 1.
Referred Case.

1867.
May 1.
Referred Case.

Penal Code : Rs. 10 to be paid to the complainant for compensation, under Sec. 44 of the Code of Criminal Procedure.

The record and proceedings were referred for the orders of the High Court, by R. H. Pinhey, Session Judge of the Konkan, with the following remarks :—

“I am of opinion that the award of Rs. 10 as compensation to complainant is not warranted by the provisions of Sec. 44 (a) of the Code of Criminal Procedure ; for there is no evidence on the record that ‘loss’ was caused to the complainant by the offence charged, or that ‘any special damage of a pecuniary nature’ resulted to the complainant by such offence.

The case was heard by COUCH, C.J., and NEWTON, J.

PER CURIAM :—The Court reverses so much of the sentence passed upon the accused as awards compensation to the complainant.

(a) Sec. 44.—In cases in which, by the sentence or order of any Criminal Court, a fine is imposed upon a conviction for any offence made punishable by fine, whether the offence be punishable or punished by fine only or otherwise, it shall be lawful for such Court to order that the fine, or any part thereof not exceeding the loss appearing to be caused to the person who has suffered by such offence, and any special damage of a pecuniary nature that may have resulted to such person by such offence, and any expenses incurred by the complainant in the prosecution, as the Court may consider reasonable and proper, be paid to or for the benefit of such person, according to the direction of the Court : and in every such case the fine, when levied or paid, shall be paid and distributed accordingly. If the fine be awarded by a Court whose decision is subject to revision, the amount awarded to the person injured shall not be paid to such person until a period of two months shall have elapsed from the date of the award.