

REG. v. LAKSHUMAN RA'MCHANDRA and others.

Crim. Proc. Code—Trial by Jury—Jurors not sworn.

Held that it was not necessary, in a trial by jury before a Court of Session, under the provisions of the Code of Criminal Procedure, that the jurors should be sworn.

1867.
April 3.
Crim. Appeal.

THE prisoners, in a trial by jury before the Court of Session at Puná, were found guilty and convicted of forgery, using as genuine a forged document, and abetment of forgery, under Sec. 467, 471, and 107 of the Indian Penal Code; and were sentenced: prisoners Nos. 1 to 5 to suffer rigorous imprisonment for two years, and to pay a fine of Rs. 200, or in default to suffer rigorous imprisonment for a further period of one year; and prisoner No. 6 to suffer rigorous imprisonment for five years, and to pay a fine of Rs. 1,000, or in default to suffer rigorous imprisonment for a further period of one year.

The Session Judge, F. Lloyd, after recording the sentence, remarked that perhaps, if he had been trying the case with the aid of assessors, he would not have convicted them.

The appeal was heard by COUCH, C.J., and WARDEN, J.

Pigot (with him *Pándurang Balibhadra*), for the prisoners, contended that the conviction was illegal, as the jurors had not been sworn. The term *jury* implied that the persons composing that body must be sworn. Moreover, there was no evidence in the case to warrant a conviction being recorded against the first five prisoners.

Ganpatráv Bháskar, for the prosecution, observed that there was no provision in the Code of Criminal Procedure (Secs. 322 to 354) which required that jurors should be sworn, any more than assessors.

COUCH, C.J. :—Since the presentation of the appeal in this case we have ascertained from the High Court of Calcutta, that the practice of swearing the jury is not observed in those districts of the Bengal Presidency where the system of trial by jury has been in force, under the provisions of the Code of

Criminal Procedure; and there is nothing in the Code to show that it was intended that the jury should be sworn.

1867.
April 3.
Crim. Appeal.

It cannot be said that there is no evidence whatever in the case; but we entirely concur with the remarks made by the Session Judge as to the value to be attached to such evidence; and, if it may be of any service to the petitioners, we have no hesitation in saying that we entirely concur with the Session Judge in his observations as to the conviction of the prisoners by the jury.

Petition rejected.

REG. v. IMA'M valad BA'BAN, BA'LA' valad
BA'BAN, and JOTI' bin MAHA'DEV.

Accomplice—Corroboration—Practice.

Held that the English practice should be followed as to the amount of corroboration required to support the evidence of an accomplice, which is, that when he speaks as to two or more persons having been concerned in the same offence, his testimony should be confirmed, not only as to the circumstances of the case, but also as to the identity of the prisoners; and that any prisoner as to whom his testimony is not supported should be acquitted.

THE prisoners were convicted of murder by R. F. Mactier, Session Judge of Sâtará; and sentenced to death, subject to the confirmation of the High Court, under Sec. 380 of the Code of Criminal Procedure.

April 15.
Crim. Appeal.

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

Bhairavanáth Mangesh (with him *Shántárám Náráyan*), for the prisoners, contended that as against Imám the evidence was very weak; and that there was no evidence implicating the prisoners Bálá and Joti', except the statements of the approver, witness No. 9, Mahádev, and of No. 7, Ganu. The evidence of the last was not at all trustworthy, more especially because he stated before the Court of Session that Bálá beat the deceased with a stick, while in his examination before the Magistrate he did not even mention his name as one of the party who attacked the deceased; and also because he stated before the Magistrate that he recognised the prisoners, at the time and place of the murder, by their voice, and he