

CROWN CASES

DECIDED IN THE

ORIGINAL AND APPELLATE JURISDICTIONS

OF THE

HIGH COURT OF BOMBAY.

REG. V. A'MBA' kom GIRSOJI.

1867.
June 12.

Ind. Pen. Code, Secs. 323 and 324—Crim. Proc. Code, Sec. 434.

In a case referred by a District Magistrate, under Sec. 434 of the Crim. Proc. Code, on the ground that the sentence was illegal: because the charge should have been, under Sec. 324 of the Penal Code, for causing hurt by means of a heated substance,—an offence which the Second Class Subordinate Magistrate had no jurisdiction to try; and not under Sec. 323, for causing hurt, of which offence the accused had been convicted:—

The Court passed no order; as it did not think it right, under the circumstances of the case, to direct the re-trial of the accused on the proper charge.

THE accused was convicted by a Second Class Subordinate Magistrate of the offence of voluntarily causing hurt under Sec. 323 of the Indian Penal Code; and sentenced to pay a fine of Rs. 10.

The record and proceedings had been called for by H. N. B. Erskine, Acting Magistrate of Ahmednagar; and were referred for the orders of the High Court, under Sec. 434 of the Code of Criminal Procedure, with the following remark:—
“It appears from the record of the case that the prisoner should have been tried, under Sec. 324 of the Penal Code, for voluntarily causing hurt by using a hot iron,—an offence which the Second Class Subordinate Magistrate had no authority to try; and the sentence seems, therefore, illegal.”

PER CURIAM (COUCH, C.J., NEWTON and WARDEN, JJ.):—
The Court returns the papers, and passes no order; as it does not think it right, under the circumstances, to direct the trial of the accused on the proper charge.

No order.

1867.

BHIMA'CHA'
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foated if such an appearance were to be treated as otherwise than nugatory. The decree of the Joint Judge must, therefore, be annulled, and that of the Şadr Amín confirmed.

GIBBS, J.:—I concur.

Joint Judge's decree annulled, and the Şadr Amín's confirmed.