

# 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.*