

1867.  
July 18.

REG. V. LARKINS.

*Complaint—Magistrate F. P.—Railway Act.*

A conviction and sentence by a Magistrate F. P. under the Railway Act reversed; there being no complaint made before the Magistrate, as required by the Code of Criminal Procedure.

THE record and proceedings in this case were referred for the orders of the Court, under Sec. 431 of the Code of Criminal Procedure, by R. H. Pinhey, Session Judge of the Konkan, with the following remarks:—

“Read an extract from the Report of criminal cases disposed of by the District Magistrate and Magistrates F. P. in the Tháná District during the month of May 1867, wherein the accused, Daniel Larkins, was entered as having been charged with the offence of having been drunk while on duty as guard of the No. 28 down goods train; and convicted of the said offence, and sentenced to pay a fine of Rs. 40, in default to undergo one month’s rigorous imprisonment, under Secs. 27 and 34 of Act XVIII. of 1854, by Captain Lewis, Railway Magistrate F. P.

“I am of opinion that the conviction and sentence passed in this case are illegal. The Full Power Magistrate appears to have had no sworn complaint before him; and to have been set in motion by, and acted alone on, a sort of demi-official or private note from a Mr. Edington, Traffic Superintendent on the G. I. P. Railway, beginning with “Dear Sir,” and winding up with “yours truly.”

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The Court reverses the conviction and sentence.