

1867.  
July 24.

REG. V. KUBERIO RATNO.

*Crim. Proc. Code, Sec. 277—Subordinate Magistrate—Magistrate F.P.—District Magistrate.*

On a reference by a District Magistrate a sentence passed by a Magistrate F. P., in a case submitted to him by a Second Class Subordinate Magistrate, under Sec. 277 of the *Crim. Proc. Code*, annulled : as the Magistrate of the District alone had power to dispose of cases under that section.

THE prisoner was tried by the Second Class Subordinate Magistrate of Ankleshwar, who submitted his proceedings, under Sec. 277 of the *Criminal Procedure Code*, to the Magistrate F. P. at Hansot, with the expression of his opinion that the offence proved against the prisoner called for a more severe punishment than he himself was competent to adjudge.

The prisoner thereupon was convicted by the Magistrate F. P. of the offence of voluntarily causing grievous hurt without provocation, and sentenced to suffer four months' rigorous imprisonment, and to pay a fine of Rs. 15, and in default to suffer further rigorous imprisonment for one month.

The record and proceedings were referred for the orders of the High Court, by T. C. Hope, Magistrate of the District of Súrat, under Sec. 434 of the *Code of Criminal Procedure*, with the remark that Sec. 277 of the *Code* authorised only the Magistrate of the District (to whom the Second Class Magistrate is subordinate) to dispose of cases submitted to him in that way.

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The Court annuls the sentence passed by the Magistrate, F.P. ; and returns the case to the Magistrate of the District for disposal.

NOTE.—Sec. 277: "If in any case tried by a Subordinate Magistrate having jurisdiction, in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than he is competent to adjudge, he shall record the finding, and submit his proceedings to the Magistrate to whom he is subordinate, and such Magistrate shall pass such sentence or order in the case as he may deem proper, and as shall be according to law. In any such case, the Magistrate to whom the proceedings are submitted, may examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence."