

miles" must be measured in a straight line along the horizontal plane.

The courts in England have put this construction upon similar words in Acts of the Imperial Legislature: *Lake v. Butler* (a); and the reason for doing so is equally applicable to this Act.

The Court declines to reverse the decision of the Magistrate, which is right.

*Conviction affirmed.*

(a) 5 E. & B. 92.

REG. V. KUSHYA' BIN YESU.

Sept. 18.

*Previous Conviction—Punishment after—Ind. Pen. Code, Secs. 75 and 380.*

A prisoner convicted, under Sec. 380 of the Indian Penal Code, of theft in a building used for the custody of property, was sentenced, under Sec. 75, to fourteen years' transportation, as he had been previously convicted thirteen times of offences now punishable, under Chap. XVII. of the Code, with imprisonment for three years or upwards:—

*Held that, as all the previous convictions were prior to the passing of the Indian Penal Code, the present offence was not punishable under Sec. 75.*

THE prisoner was convicted by R. F. Mactier, Session Judge of Sátará, under Sec. 380 of the Indian Penal Code, of the offence of theft in a "building used for the custody of property," and sentenced, under Sec. 75 (a), to transportation for fourteen years; as he had been previously convicted thirteen times of offences now punishable, under Chap. XVII. of the Code, with imprisonment for three years or upwards.

The record and proceedings having been sent for on hearing the prisoner's petition, the case came on for disposal this day before COUCH, C.J., and NEWTON, J.

(a) Sec 75.—"Whoever, having been convicted of an offence punishable, under Chapter XII. or Chapter XVII. of this Code, with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding ten years."

1867.

REG.

v.

BHIKABA'  
VINOBA'  
et al.

1867.  
REG.  
v.  
KUSHYA' BIN  
YESU.

COUCH, C. J. :—As all the previous convictions were prior to the passing of the Indian Penal Code, the prisoner is not subject for the present offence to be punished under Sec. 75.

We, therefore, reduce the sentence to seven years' rigorous imprisonment, the highest amount of punishment to which the prisoner is liable, under Sec. 380 of the Code.

*Sentence altered.*

REG. V. ZORA KARUBEG.

Sept. 26.

*Conviction on several Charges—Punishment in excess—Criminal Intimidation—Ind. Pen. Code, Secs. 506 and 507.*

Where a person, though charged under two heads, was found guilty of what was substantially but one offence :—

*Held*, that it was improper for the Session Judge to record a conviction under two sections of the Indian Penal Code; and thereupon to award a punishment of two years' imprisonment in excess of what the law prescribed for the offence committed.

THE prisoner was convicted, by C. G. Kemball, Session Judge of Súrat : (1) of the offence of criminal intimidation, the threat being to cause the death of one Jibháí Rámdás, and (2) of criminal intimidation, by posting up an anonymous communication against the said Jibháí Rámdás; and was sentenced, under Secs. 506 and 507 of the Indian Penal Code, for the 1st offence to suffer seven years' rigorous imprisonment, and for the 2nd offence to suffer two years' rigorous imprisonment.

The High Court, on reviewing the Session Judge's monthly Criminal Return, sent for the record and proceedings.

PER CURIAM (COUCH, C. J., and NEWTON, J.) :—The Court reverses the conviction of Zora Karubeg under the 2nd head of the charge, on the ground that there was but one offence committed, and that it was improper for the Session Judge in such a case to record a conviction under two sections of the Indian Penal Code, and thereupon to award a punishment of two years' imprisonment in excess of what the law prescribes for the offence which was committed.

*Conviction under 2nd head annulled.*