

REG. v. VISHVANA'TH DAULATRA'V.

1867.
Sept. 16.*District Magistrate—Magistrate F.P.—Reference—Jurisdiction—Crim.
Proc. Code, Sec. 404.*

The case of a prisoner accused of the offence of attempting to cheat by personation was referred for trial by the District Magistrate to a Magistrate F. P., who, without a complaint being made to him, convicted and sentenced the prisoner.

The conviction and sentence were confirmed by the Session Judge.

On application to the High Court to annul the conviction, on the ground that the Magistrate F. P. had no jurisdiction to try the case, the Court refused the application, as the question of jurisdiction had not been raised before the Session Court.

THIS was an application to the High Court to send for the record and proceedings in this case, under their powers of extraordinary jurisdiction.

The prisoner was convicted of the offence of attempting to cheat by personation, and sentenced, under Secs. 419 and 511 of the Indian Penal Code, to six months' rigorous imprisonment and to pay a fine of Rs. 500, in default, to suffer further six months' rigorous imprisonment. This conviction was confirmed in appeal by the Session Court.

Nánabhái Haridás, for the prisoner, stated that this case was referred by the District Magistrate to a Magistrate F. P., and the latter, on that reference, without any complaint being laid before him, as required by law, convicted and sentenced the prisoner. He, therefore, applied that the conviction and sentence should be set aside, as the Magistrate F. P. had no jurisdiction to try the case on the reference by the District Magistrate, to whom he was not subordinate.

COUCH, C. J. :—The question as to want of jurisdiction cannot be raised now, not having been raised in the Session Court.

NEWTON, J., concurred.

Petition rejected.