

1867
REG.
v.
NATHA'MULA' six months' rigorous imprisonment and to pay a fine of Rs. 25, or in default to suffer further rigorous imprisonment for one month.

The accused paid the sum of Rs. 22-1-11, in part payment of the fine inflicted ; but the Subordinate Magistrate failed to give a notice of the payment to the jailer, and the consequence was that the accused suffered the whole term of imprisonment awarded by the Subordinate Magistrate in commutation of the fine imposed.

The above being the case, G. W. Elliot, Acting Magistrate of Khedá, sent a letter to the High Court requesting its sanction to refund to the accused the portion of the fine recovered from him.

The case came on for disposal this day, before COUCH, C. J., and NEWTON, J.

PER CURIAM :—The Court has no power to order the fine to be refunded. Any necessary application should be made to the Government. The Subordinate Magistrate ought to see that the party does not suffer in consequence of his omission.

Dec. 5.

REG. v. BECHAR MA'VA'.

Jurisdiction—Foreigner—Act XXV. of 1861, Sec. 31.

Sec. 31 of the Crim. Proc. Code does not confer jurisdiction upon a Magistrate to try the subject of a foreign State for "receiving stolen property," when the offence of receiving such property has been committed outside the British territories.

THE accused was convicted, in September 1867, by M. H. Scott, holding the powers of a Subordinate Magistrate of the First Class in the Khedá District, of "having dishonestly retained or received stolen property, knowing or having reason to believe the same to be stolen property;" and sentenced to suffer two months' rigorous imprisonment, under Sec. 411 of the Indian Penal Code.

The record and proceedings were referred for the orders of the court, under Sec. 134 of the Code of Criminal Proce-

dure, by G. W. Elliot, Acting Magistrate of Khedá, with the following remarks :—

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“The prisoner, Bechar Mává, is an inhabitant of Kudal, a foreign State within the Mahi Kántá Agency, and the property was found there. There is nothing to show that it had been in the British territory, either as stolen property, or that it was stolen there; and even if it were, Sec. 31 (a) of the Code of Criminal Procedure, quoted by the First Class Subordinate Magistrate in his memorandum of explanations, would not be so applicable as to justify his having tried a foreigner for an offence committed within his own territory.”

PER CURIAM (COUCH, C. J., and NEWTON, J.) :—The Court annuls the proceedings of the Subordinate Magistrate, First Class, for want of jurisdiction.

(a) “If any person be charged with any offence punishable under Sections 411, 412, or 414 of the Indian Penal Code, under the head of ‘the receiving of stolen property,’ such offence may be inquired into or determined in any District or Division of a District in which such person shall have, or shall have had, such stolen property in his possession, or in any District or Division of a District in which the offence by which such property came to be stolen property within the meaning of the said Code may be inquired into or determined.”