

1868.
Jan. 28.

REG. v. KA'SAMJI yalad HIMINJI MHASKAR.

Jurisdiction—Act XIX. of 1838, Sec. 13—Registry.

Held that a Magistrate F. P. alone has jurisdiction to convict of an offence under Sec. 13 of Act XIX. of 1838.

THE accused in this case was convicted, by a Subordinate Magistrate of the 2nd Class at Ratnágirí, “of using a boat without number and certificate of registry,” and was sentenced, under Sec. 13 of Act XIX. of 1838, to pay a fine of Rs. 10, to be recovered, in default of payment, by the sale of the boat and its contents.

Upon a review of the Monthly Criminal Return of the Magistrate of the Ratnágirí District for the month of August 1867, the High Court sent for the papers and proceedings to determine whether the Subordinate Magistrate had jurisdiction to try the case.

PER CURIAM (COUCH, C. J., and NEWTON, J.):—A Full Power Magistrate alone has jurisdiction in such cases, since the fines, under Sec. 13 of Act XIX. of 1838, are to be recovered on conviction before *any Magistrate*, Justice of the Peace, or *person exercising the powers of a Magistrate*, as provided in the said section; and Sec. 4 of Act II. of 1839, since repealed, provided that the term “*Magistrate*” should extend to all “*persons lawfully exercising the powers of a Magistrate.*” The trying Magistrate in this case, who had merely the powers of a Subordinate Magistrate of the 2nd Class, had, therefore, no jurisdiction to try the case; and, consequently, we must annul the conviction and sentence.

Conviction and sentence annulled.