

REG. V. RAVLOJIRA'V bin HANMANTRA'V.

1868.
Jan. 30.

Committal to the Court of Session—Indian Registration Act, 1866,
Secs. 91 and 95—Act VII. of 1854, Sec. 54.

Held that the committal of the accused to the Court of Session by a Magistrate for trial on a charge under Sec. 91 of the Indian Registration Act (XX. of 1866) was legal.

The Session Court was accordingly directed to try the accused.

CASE referred for the orders of the High Court by C. F. Shaw, Session Judge of Dhárwár, with the following remarks :—

“ The Court has perused the proceedings of the Magistrate F. P. in the case of Ravlojiráv bin Hanmantráv, committed for trial before the Court of Sessions on a charge preferred under Sec. 91 of Act XX. of 1866 ; and it is of opinion that the commitment to the Sessions Court is illegal.

“ Sec. 95 of the Registration Act runs—‘All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate, or Subordinate Magistrate of the 1st Class ;’ and the case of *Morobá Náráyan (a)*, charged with embezzlement under the Post Office Act, No. XVII. of 1854, Sec. 54, is an authority for the Court of Sessions not interfering in charges of this description.

“The Honorable the Judges in *Morobá's* case ruled that ‘there was no Act or Regulation which prevents the Magistrate’s jurisdiction being extended ;’ and since judgment was delivered in that case, Act XXV. of 1861, Sec. 22, has extended the jurisdiction of the Magistrate ; and, therefore, there is no reason why a Magistrate should not exercise the powers authorised by Sec. 91 of Act XX. of 1866.

“The Court cannot but think that the alteration of the procedure in relation to false statements before Registration Officers, as laid down by Sec. 70 of Act XVI. of 1864, was deliberately effected ; and the different course prescribed by Sec. 95 of Act XX. of 1866 must, therefore, be followed.

(a) 7 Morris 251-258.

To institute a process does not mean to carry it through all the stages
(eff 211 of 202)
only a magister
and
1864 of Act XXV
Ref on Sup
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“It is true that Sec. 54 of Act XVII. of 1854 uses the words ‘punished on conviction;’ but then Sec. 46 of the Pársi Matrimonial Act (XV. of 1865) limits the powers of a Magistrate; and if it had been the intention of the Legislature to authorise the committal of offenders to the Court of Sessions for trial for offences under the Registration Act, there was no reason why such intention should not have been expressed in Sec. 95 of Act XX. of 1866.

“For which reasons, the proceedings of the Magistrate F. P. will be submitted to the High Court, under Sec. 434 of the Code of Criminal Procedure, in order that the commitment of Ravlojiráv may be quashed, and the Magistrate F.P. be directed to dispose of the case according to law.”

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The words in Sec. 95 of Act XX. of 1866 are “prosecutions shall be instituted;” whereas the words in Sec. 54 of Act XVII. of 1854 are “conviction before a Magistrate:” and the case quoted by the Session Judge is not applicable. The commitment of the case appears to us legal, and the Session Judge should try the case.

REG. v. UMTHA' RUGNA'TH.

Appeal—Magistrate of District—Magistrate F. P.—Broach.

Held that the power conferred upon the Magistrate F. P. at Broach to hear appeals does not exclude the jurisdiction which the Magistrate of the District has by law, and that the proceedings in any case, in which a prisoner has appealed from the decision of a Subordinate Magistrate to the District Magistrate, must be forwarded to the latter.

IN this case the prisoner was convicted and sentenced to two months' rigorous imprisonment by U'medráv Ranchoddás, 1st Class Subordinate Magistrate at Broach.

The prisoner preferred an appeal to T. C. Hope, Magistrate of the District, who called upon the Magistrate F. P. (C. M. Hogg) at Broach to forward the proceedings; but the Magistrate F. P. objected to furnish the original