

REG. v. GANGA' kom MHASU.

1868.
Feb. 12.*Trespass by Cattle—Jurisdiction—Act III. of 1857, Sec. 18.*

By virtue of Sec. 21 of the Crim. Proc. Code, a Subordinate Magistrate of the 1st Class has jurisdiction to try an offence under Sec. 18 of Act III. of 1857 (Cattle Trespass Act), there being no provision in that Act as to the authorities by which offences committed under it are to be tried.

THE accused was convicted, by the First Class Subordinate Magistrate of Karád, in the Sátará District, under Sec. 18 of the Cattle Trespass Act (III. of 1857), and sentenced to pay a fine of two rupees, "for allowing his pigs to cause damage to certain trees belonging to the complainant."

It having appeared to the District Magistrate, J. R. Arthur, that a Subordinate Magistrate had no jurisdiction under the Act in question, he referred the case for the orders of the High Court, under Sec. 434 of the Code of Criminal Procedure.

PER CURIAM (COUCH, C. J., and NEWTON, J.) :—It appears to us that, as no special provision is made in Act III. of 1857 as to the authority by which offences under Sec. 18 of that Act are to be tried, Sec. 21 of the Code of Criminal Procedure gives jurisdiction to the First Class Subordinate Magistrate; and this ruling is in accordance with the rulings of the late Šadr Court in 1861-62.

REG. v. VITHAL LAKSHUMAN.

Feb. 13.

Illegal Order—Transit Duties—Holkar's Government.

Held that it was beyond the power of a Collector to issue an order prohibiting the receiving of transit duties for the Holkar's Government in British territory.

THE accused was charged with "disobeying an order of , a public servant in levying transit duties for the Holkar's Government in British territory, contrary to the order of the Magistrate," and was convicted and sentenced by the

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Magistrate F. P. in the Khándesh District to pay a fine of Rs. 40, the same to be levied by distraint if necessary.

The record and proceedings were called for, on a review of the monthly calendar of cases disposed of by the Magistrate F. P. in the Khándesh District.

The Magistrate stated that the order referred to in this case was issued by the Collector, in his capacity of chief revenue officer, it having been brought to his knowledge that transit duties on wood were being levied by certain agents of His Highness the Holkar within the limits of the collectorate.

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The Court annuls the conviction and sentence, as it appears that nothing was done by the accused within British territory to compel the payment, but that it was a voluntary one, the person making it having sought the accused in order to do so; and the Court is of opinion that the order, so far as it may be construed as prohibiting any person from receiving a payment so made, was beyond the power of the Collector.

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REG. V. TUNGA' TUKA'.

Subordinate Magistrate—Jurisdiction—Act XXII. of 1855.

The word "Magistrate" in Sec. 62 of Act XXII. of 1855 includes a Subordinate Magistrate: such Magistrate has, therefore, power to try the master of a vessel for an offence committed against Sec. 46 of that Act.

THE accused was charged with breach of Port Rules, in omitting to report to the Conservator of the Port the arrival of his vessel within twenty-four hours of her arrival (under Sec. 46 of Act XXII. of 1855). He was convicted and sentenced by the Second Class Subordinate Magistrate of U'ran to pay a fine of five rupees.

The record and proceedings in the case were called for, under Sec. 404 of the Code of Criminal Procedure, in order to determine whether the Subordinate Magistrate had jurisdiction to try the case.