

1868,  
REG.  
v.  
VITHAL  
LAKSHUMAN.

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.

Feb. 13.

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.

PER CURIAM (COUCH, C.J., and NEWTON, J.) :—The Magistrate is to be informed that the words in Sec. 62 of the Act may be construed as including a Subordinate Magistrate, who, therefore, has jurisdiction.

1868.

REG.

v.

TUNGA' TUKA.

NOTE.—Sec. 46 : “ Within twenty-four hours after the arrival within the limits of any such port of any vessel liable to the payment of port dues, under this or any subsequent Act, the master of such vessel shall report such arrival to the Conservator of such port ; and if any master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding one hundred rupees for every such offence.”

Sec. 62 :—“ The word ‘Magistrate’ in this Act shall include a Justice of the Peace, \* \* \* a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.”

REG. v. GOVINDA' bin BA'BA'JI.

Feb. 13.

*Session Court—Jurisdiction—Power to quash proceedings.*

The order of a Session Judge to quash proceedings held before a Magistrate F. P., annulled as having been made without jurisdiction.

Comments by a Magistrate F. P. on the proceedings of the Session Court, disapproved of.

THIS case was referred by R. F. Mactier, Session Judge of Sátará, under Sec. 434 of the Criminal Procédure Code, for the orders of the High Court.

“ Govindá bin Bábáji appeals against a sentence of one year's rigorous imprisonment, and a fine of Rs. 300, or in default three months' further rigorous imprisonment, passed on him by E. H. Little, Magistrate F. P., for ‘voluntarily causing hurt,’ under Sec. 323 of the Indian Penal Code.

“ Prisoner admits that he gave his wife ‘two blows on the face ;’ and this would be sufficient to justify his conviction for ‘causing hurt ;’ but the matter is a far more serious one. The evidence would seem to show, and the Magistrate F. P., in his finding, remarks, that ‘there can be no doubt that accused gave deceased a severe beating, and that she died from its effects, although it is not proved in what way death was immediately caused.’