

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.

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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.’

1868.
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"My opinion is that in a case where it was clear that his wife had been killed, whether intentionally or not, the case was one for the Session Court.

"And further I think that when the Magistrate F. P., as above remarked, admits that he thought that the accused caused his wife's death, such an opinion would not justify a conviction for 'causing hurt' alone.

"The 320th section of the Penal Code, in the 8th definition of what is 'grievous hurt,' says that 'grievous hurt' is 'any hurt which endangers life;' here life was not only endangered by the hurt, but destroyed; and surely this alone would make the offence more than 'causing hurt.' At any rate, the case seems to be one which should have come before the Session Court. It is clear that life was taken, and through violence; and the case should have been committed on the various charges, if necessary, of 'murder,' 'culpable homicide not amounting to murder,' and 'grievous hurt.'

"I must, therefore, decide to quash the proceedings of the Magistrate F. P. in this case, and return the papers with a request that the accused, Govindá bin Bábáji, may be committed to the Session Court on the several charges above specified."

The Magistrate F. P. made some observations, under the name of "supplemental finding," commenting on the proceedings of the Session Court, and in order to avoid sending a case to the Session Court.

PER CURIAM (COUCH, C. J., and NEWTON, J.):—The Court annuls the order of the Session Judge, as made without any jurisdiction. The Magistrate F. P. is to be informed that he ought not, under the name of "supplemental finding," to have commented on the proceedings of the Session Court, and that his observations in favour of Magistrates' convicting of a lesser offence than that which has been proved, in order to avoid sending a case to the Session Court, are disapproved of.

Order of Session Judge annulled.