

1868.
May 20.

REG. V. KABHA'I RAVA'BHA'I. *et al.*

Charge, omission to prepare a charge—Crim. Proc. Code, Sec. 250.

Held that the omission to prepare a charge did not vitiate the proceedings; and conviction upheld.

CASE referred for the orders of the Court by G. W. Elliot, Acting Magistrate of the District of Khedá, under Sec. 434 of the Code of Criminal Procedure.

Dámódhardás Gokaldás, Subordinate Magistrate of the Second Class at Mátar, convicted the accused, under Sec. 504 of the Indian Penal Code, of "intentional insult with intent to provoke a breach of the peace," and sentenced him to pay a fine, without having prepared a charge in writing, as prescribed by Sec. 250 of the Code of Criminal Procedure.

The matter having come to the knowledge of the Acting Magistrate of the District, he called for an explanation from the Subordinate Magistrate, who thereupon, on the 23rd of March 1868, prepared a charge in writing, dating it the 30th of January 1868, and filed it among the proceedings.

PER CURIAM (NEWTON, Acting C.J., and TUCKER, J.):—The irregularity complained of, though very great, cannot be said to have occasioned a failure of justice; and it, therefore, forms no proper ground for setting aside the trial or reversing the judgment (Sec. 439 of the Criminal Procedure Code.) The proceeding of the Subordinate Magistrate in preparing and antedating a charge after explanation was called for was highly improper.

No order.