

Penal Code, triable only by the Session Court, it was competent to the Magistrate to discharge the accused, under Sec. 225 of the Code of Criminal Procedure, if he held that there were not sufficient grounds to warrant the committal; and it would not have been within his competency to acquit the accused of the principal charges, as suggested by the Session Judge.

Although the Magistrate has not quoted the section under which he has discharged the accused, he must be considered to have acted under Sec. 225 of the Code of Criminal Procedure. Under Sec. 435 of that Code, the Session Judge has power, should he see fit, to order the case to be committed to the Court of Session.

No order.

REG. V. BECHAR KHUSHA'L.

June 11.

Imprisonment in default of payment of fine—Act (Bombay) VII. of 1867, Sec. 31.

Imprisonment in default of payment of a fine inflicted under Act (Bombay) VII. of 1867, Sec. 31, ought to be simple, not rigorous.

THE Subordinate Magistrate of the Second Class at Mátar, Harichand Pándurang, convicted the accused, under Sec. 31, Cl. 3, of Act VII. of 1867 (Bombay), “of depositing dirt, filth, or rubbish, except in appointed places,” and sentenced him to pay a fine of four annas, or in default of payment thereof to suffer one day’s rigorous imprisonment.

The Acting Magistrate of Khedá, G. W. Elliott, being of opinion that the sentence of rigorous imprisonment in default of payment of the fine was illegal, under Sec. 31, referred the case for the orders of the High Court, under Sec. 434 of the Criminal Procedure Code.

PER CURIAM (NEWTON, Acting C.J., and TUCKER, J.):—The Court reverses so much of the sentence as orders that imprisonment shall be rigorous.

1868.
REG.
v.
PÁNDURANG
MAYRÁ'L
et al.