

verses so much of the sentence as awards seven days' imprisonment in default of payment of the fine, as the Court holds that, under the Act, the trying Magistrate had no authority to make such order.

1868.

REG.

v.

CHENA'PPA'
NA'GA'PPA'.

REG. V. SANTU BIN LAKHA'PPA' KORE.

June 17..

Imprisonment—Ind. Pen. Code, Sec. 290—Public Nuisance.

The sentence of imprisonment passed in default of the payment of a fine inflicted under Sec. 290 of the Indian Penal Code (for committing a public nuisance) should be one of simple, not rigorous, imprisonment.

THIS case was called for by the High Court on a review of the Criminal Return of the Magistrate of the District of Sátará for the month of September 1867.

The accused was convicted by Mahádáji Vishvanáth, Subordinate Magistrate of the First Class, of committing a public nuisance, in having allowed dirty water to run into the street at U'ran, and sentenced, under Sec. 290 of the Indian Penal Code, to pay a fine of five rupees, or in default of payment to suffer rigorous imprisonment for five days.

On an examination of the Subordinate Magistrate's Monthly Return, the Magistrate F. P., G. H. D. Wilson, remarked that the sentence of imprisonment awarded in default of payment of the fine should have been simple, and not rigorous, and that, although Sec. 67 of the Penal Code was not clear on this point, still on reading Sec. 291 it did not appear to him proper to award the sentence of rigorous imprisonment in cases coming under Sec. 290. The Magistrate of the District said that, as the law was silent, no order regarding it could be issued.

PER CURIAM (COUCH, C.J., and NEWTON, J.):—The Court amends the sentence by substituting "simple" for "rigorous" imprisonment.