

1868,
June 17,

RFG. v. KRISHNA'SHET bin NA'RA'YANSHET.

Mámlatdár—Act V. of 1864 (Bombay)—Possession—Right of Way.

Held that an order passed by a Mámlatdár under Act V. of 1864 (Bombay) directing the accused to keep open a right of way to a privy, being in reality an injunction to refrain from disturbing the possession of the parties, was, therefore, within the jurisdiction of the Mámlatdár.

CASE referred for the orders of the High Court by F. Lloyd, Session Judge of Puná, under Sec. 434 of the Code of Criminal Procedure.

There was a privy used by the whole of the people residing in Jámbekar's *vádá*, the way to which the accused had blocked up, by fixing a new doorway in the passage leading to it. The people obstructed thereby complained to the Mámlatdár of the City of Puná, who made an order, under Bombay Act V. of 1864, directing the accused to allow the complainant a right of way as before, and not to keep the door across the way closed or locked. The accused disobeyed this order, for which he was convicted by E. T. Richardson, Magistrate F. P. at Puná, under Sec. 188 of the Indian Penal Code, and sentenced to pay a fine of twenty rupees, or in default of payment to undergo ten days' simple imprisonment.

The Session Judge remarked that it did not appear that, under Bombay Act V. of 1864, the Mámlatdár was empowered to pass the order regarding "right of way," which the accused was found guilty of having disobeyed.

PER CURIAM (COUCH, C.J., and NEWTON, J.):—The offence, although described in the finding and sentence as disobedience of an order directing the accused to keep open a right of way to a privy, was in reality disobedience of an injunction to refrain from disturbing the possession of the parties, and, therefore, within the jurisdiction of the Mámlatdár.

No order.