

and in telling him that he would have it measured when he had leisure. This was certainly no obstruction, within the meaning of Sec. 186 of the Indian Penal Code; and we, therefore, reverse the conviction and sentence complained of.

TUCKER, J., concurred.

Conviction and sentence reversed.

REG. V. BHAVA'NISHANKAR HARIBHA'I AND TWO OTHERS. July 1.

False Evidence—Joint Trial—Procedure.

A person accused of giving false evidence in a stage of a judicial proceeding is entitled to have the specific charge made against him tried independently of a like charge against another person.

THE accused were charged with having given false evidence in a trial before the Acting Senior Assistant Session Judge at Broach. Bhavánishankar Haribháí and Raghunáth Bháídás were said to have falsely stated that a Bheel of the name of Jogá did test certain rupees, and that Vallabh Vishvanáth, accused No. 3, was present at the time. The false statement alleged to have been made by Vallabh, was that he was present when the rupees were given to the Bheel. In the preliminary investigation before the Magistrate, and in the trial before the Assistant Session Judge, all three accused were tried jointly, and each of them, being convicted, was sentenced to undergo three years' rigorous imprisonment.

From the convictions and sentences the prisoners appealed.

The Appeal was heard before WARDEN and GIBBS, JJ.

Dunbar (with him *Shántárám Náráyan*) contended that each of the accused was entitled to have the specific charge made against him tried quite independently of the like charge against the others; that a joint trial deprived him of the benefit of the evidence of his fellow-prisoners; and that, this irregularity being such as effected the merits of the case, the convictions should be quashed. He cited Mayne's Penal Code, p. 313 (3rd ed.), and *The Queen v. Khoab Lall and others* (a).

(a) 9 Calc. W. Rep., Cr. R. 66.

1863.

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SHANKAR
HARIBHAI
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PER CURIAM:—The Court considers that the Acting Senior Assistant^o Judge, in trying all the three accused jointly on a charge of intentionally giving false evidence, was guilty of great irregularity. Each of the accused was entitled to have the specific charge made against him tried quite independently of a like charge against another person. The Court would have been prepared to annul the proceedings, and order a fresh trial; but upon a review of the evidence it appears so extremely doubtful that a conviction could be arrived at, that they consider the ends of justice will be best met by reversing the conviction and sentence.

Convictions and sentences reversed.

REG. v. NA'RO GOPA'L.

July 22.

Forgery—Copy of a Document—Ind. Pen. Code, Sec. 467.

The forging of a document which purports on the face of it to be a copy only, and which, even if a genuine copy, would not authorise the delivery of moveable property, is not punishable under Sec. 467 of the Indian Penal Code.

The High Court will not alter a conviction by a Session Court aided by a jury, on a charge only triable by a jury, to one of a nature not triable by such a tribunal, but will annul the proceedings, and leave the prosecution to take fresh proceedings against the prisoner on any other charge it may be advised.

THE accused was charged, before the Session Judge of the District of Puná and a jury, with having forged a document purporting to give authority for the delivery of moveable property, and also with having used as genuine the said forged document.

The jury having returned a verdict of guilty on both these charges, the Session Judge passed a sentence of three years' rigorous imprisonment on each. From the conviction and sentence the prisoner appealed.

The Appeal was argued before WARDEN and GIBBS, JJ.

White (with him Pándurang Balibhadra), for the petitioner:—The document, which the accused is said to have forged and used as genuine, bears on the face of it the word