

REG. V. MAHIPYA' valad BOMYA' MAHA'R.

1868.
Sept. 24.

Theft—Report of Policeman—Complaint—Crim. Proc. Code, Secs. 43, 109, and 248.

Where a policeman in whose sight a theft was committed arrested the thief, and, being himself unable to take or send the accused to a Magistrate, sent a report, on which the Magistrate issued a warrant :

Held that, under these circumstances, the accused was legally brought before the Magistrate.

IN this case the accused was convicted by the Subordinate Magistrate of the Second Class at Násik, in the Ahmednagar District, of theft, under Sec. 379 of the Indian Penal Code, in having cut and removed a log of teak from the Government forests without a permit, and was sentenced to pay a fine of three rupees, or undergo seven days' rigorous imprisonment. The Magistrate of the District, H. N. B. Erskine, was of opinion that the proceedings of the Subordinate Magistrate were irregular, inasmuch as he had issued his warrant to arrest the accused without having had any complaint made to him. He, therefore, under Sec. 434 of the Crim. Proc. Code, submitted the case for the orders of the High Court.

PER CURIAM (NEWTON and TUCKER, JJ.) :—It appears that the accused was seen committing an offence for which the police were authorised to arrest without a warrant, namely, theft, and that the policeman in whose sight the offence was committed arrested him, and, having been unable to take or send the accused to the Magistrate, in accordance with the provisions of Sec. 109 of the Code of Criminal Procedure, sent a report, on which the Magistrate issued a warrant. Under these circumstances, the Court considers that the accused was legally brought before the Magistrate. The record and proceedings to be returned.

No order.