

REG. v. JAGANNA'THBHAT bin A'PPA'BHAT.

1868.
Dec. 3.*Disobedience of Order made by Municipal Commissioners—Illegal Sentence—Act XXVI. of 1850.*

Where accused was convicted, under Act XXVI. of 1850, of disobedience of an order made by the Municipal Commissioners of Puná, and was sentenced to pay a fine of twenty rupees, and (eight days' time being allowed him within which to comply with the order) a further fine of two rupees for each day during which he should continue wilfully to disobey such order, the latter part of the sentence was reversed by the High Court, as being illegal.

IN this case the accused was convicted of disobedience to the mandate of the Municipal Commissioners of the City of Puná, in not having stopped using, and in not having removed, his privy, situated on the bank of the river, as required by a Commissioner's notice, and was sentenced by E. T. Richardson, Magistrate F. P., under Act XXVI. of 1850, and Sec. VII., cl. 1, of the Municipal Rules sanctioned by Government, to pay a fine of twenty rupees. The accused was allowed eight days within which to comply with the order, but failing to do so, a fine of two rupees was imposed upon him for each day during which such disobedience should be wilfully continued.

The Session Judge, F. Lloyd, forwarded the case, under Sec. 434 of the Code of Criminal Procedure, for the orders of the High Court, as he was of opinion that the Magistrate had exceeded his power in the penalty imposed. The reasons assigned by the Session Judge were—

“In cl. 5, Sec. VII. of Act XXVI. of 1850 it is enacted that a breach of any of the rules made by the Commissioners shall be punished by a penalty not exceeding fifty rupees, or, in the case of continuing nuisance, not exceeding five rupees for every day that such nuisance is continued.

“In cl. 1, Sec. VII. of the rules themselves it is declared, that disobedience of the mandates of the Commissioners shall be punished by a fine not exceeding the limit prescribed by the Municipal Act, and, in the case of continued disobedience by a fine not exceeding five rupees for every day during which such disobedience shall be wilfully con-

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tinued, thereby sanctioning a higher penalty than that provided by the Act; but this is illegal. The Commissioners had no power to frame rules authorising a higher penalty than that provided by cl. 5, Sec. vii. of Act XXVI. of 1850."

PER CURIAM (NEWTON and TUCKER, JJ.):—The Court reverses as illegal that part of the Magistrate's order which purports to award a fine of two rupees a day in case of any future disobedience of the mandate of the Commissioners.

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REG. v. SAJJAN valad VITHU.

Stamp—Complaint by Civil Court—Crim. Proc. Code, Sec. 168.

A complaint preferred by a Munsif under Sec. 168 of the Crim. Proc. Code need not, though it do not bear the seal of the Munsif's Court, be on stamped paper.

THIS was a case referred for the orders of the High Court, by the Honorable G. A. Hobart, Session Judge of Khán-desh, under Sec. 404 of the Code of Criminal Procedure.

The accused not having attended the Civil Court in obedience to a summons issued by the Civil Court and served on him, the Munsif of Máligám sent a "yádi," in the usual official form, to the Subordinate Magistrate, 2nd Class, complaining of such contempt of his lawful authority, and requesting that the Magistrate would institute inquiry into the matter. The Magistrate was of opinion that the complaint should have been on stamped paper, and declined to entertain it on the Munsif's unstamped official "yádi." C. B. Pritchard, Magistrate F. P., coincided in opinion with the Subordinate Magistrate, and nothing was done in the matter.

The Session Judge remarked—

"It seems to me that a complaint laid by 'yádi' by a Munsif is a 'writing made by a court,' which is exempt from a stamp, under the general exemptions clause at the end of Schedule A of the Stamp Act; that if not so, it is an information laid before a Criminal Court, which the Magis-