

CROWN CASES  
DECIDED IN THE  
ORIGINAL AND APPELLATE JURISDICTIONS  
OF THE  
HIGH COURT OF BOMBAY.

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REG. V. WELLS.

*Jurisdiction—British-born Subject—Justice of the Peace—Mischief—  
Ind. Pen. Code, Sec. 426.*

1870.  
March 24.

Where a Magistrate, being also a Justice of the Peace, convicted a British-born subject of mischief under Sec. 426 of the Indian Penal Code, the High Court annulled the conviction and sentence, and directed the accused to be committed to take his trial before the High Court, unless the complainant withdrew the charge, under Sec. 271 of the Criminal Procedure Code.

THE accused, T. L. Wells, a British-born subject, was convicted by G. F. M. Grant, a Justice of the Peace, and Magistrate F. P. in the Ahmedábád district, of mischief, and sentenced, under Sec. 426 of the Indian Penal Code, to pay a fine of Rs. 15, or in default of payment to undergo thirty days' simple imprisonment.

The accused was charged by the complainant with having shot her goat.

The following is an extract from the finding recorded by the Magistrate:—

“ The accused has admitted all the essential facts alleged by the complainant. The only fact which he disputes is the value of the goat. *Primâ facie*, the act falls within the definition of mischief, and it is certain that the law does not authorise resort to such violent remedies against trespass.”

1870.

REG.

v.

WELLS.

Upon a review of the Magistrate's monthly criminal return, A. A. Borradaile, Magistrate of the district of Ahmedábád, referred the case for the orders of the High Court, under Sec. 434 of the Code of Criminal Procedure, with the remark that a Justice of the Peace had no jurisdiction to try a European British subject under the Penal Code, and that the sentence appeared, therefore, illegal.

The case was considered this day by WARDEN and LLOYD, JJ.

PER CURIAM :—The Court annuls the conviction and sentence. The accused must be committed to take his trial before the High Court, unless the complainant withdraw the charge, under Sec. 271 of the Criminal Procedure Code.

*Conviction and sentence annulled.*

REG. V. BA'PUJI GANGA'RA'M.

April 27.

*Act VII. (Bombay) of 1867, Secs. 27, 28, and 29—Written Order—Power of the Police to keep order in Temples.*

An order issued under Sec. 28 of the Bombay District Police Act (VII. of 1867) need not be in writing—disobedience of a verbal order given under that section is punishable, under Sec. 29.

The words of Sec. 28 of the District Police Act, which authorise the Police "to keep order in the neighbourhood of places of worship during the time of public worship," confer upon the police a power of regulating traffic, and putting a stop to noises, in the neighbourhood of places of worship during the time of worship, but do not limit their general powers of keeping order at and within all places of public resort, temples, *jatras*, or the like, when necessary.

THIS was an application to the High Court, in the exercise of its extraordinary criminal jurisdiction, to set aside an order of G. W. Elliot, Magistrate of Kheḍá, confirming the sentence passed against the accused by the Subordinate Magistrate, First Class, at Thásrá.

The application was heard by GIBBS and LLOYD, JJ.

*Nánábhái Haridás* for the appellant.

*Dhirajlál Mathurádás* (Government Prosecutor), for the Crown.