

1870.
June 13.

REG. v. KA'DIR valad BA'LU.

Evidence—Wife's Evidence against Husband—Mofussil Law.

The evidence of a wife is admissible against her husband in a criminal case in the Mofussil.

Reg. v. Khyroollah (a) followed.

(2) 6 Calc. W. Rep., Cr. R. 21.

THIS was a reference made by G. F. Sheppard, Magistrate of the District of Tháná, for the orders of the High Court.

Mr. Pearson, First Class Subordinate Magistrate in the Tháná district, dismissed a complaint of causing the death of a child, on the ground that the evidence of the complainant was inadmissible against the accused, who was her husband.

The reference was heard before WESTROPP, C. J., and LLOYD, J.

PER CURIAM:—Following the case of *Reg. v. Khyroollah and others (ubi supra)*, the Court reverses the order of the Subordinate Magistrate, Mr. Pearson, and directs him to proceed with the investigation of the case, and to take the evidence of the wife of the accused.

Order accordingly.

June 15.

REG. v. VYANKATRA'V SHRINIVA'S.

Search without Warrant—Crim. Proc. Code, Sec. 135—Ind. Pen. Code, Sec. 99.

An officer, subordinate to an officer in charge of a police station, who was deputed by the latter to make an inquiry under Sec. 135 of the Code of Criminal Procedure, attempted without a search-warrant to enter a house in search of property alleged to have been stolen, and was obstructed and resisted:

Held (applying Sec. 99 of the Indian Penal Code) that, even though the police officer was not strictly justified in searching the house without a warrant, the person obstructing and resisting could not set up the illegality of the officer's proceeding as a justification of his obstruction, as it was not shown that that officer was acting otherwise than in good faith and without malice.

A Magistrate acting judicially should not import into the case before him his previous knowledge of the character of the accused, but should determine his guilt or innocence upon the evidence given in the case.

THE accused was tried and convicted before the Subordinate Magistrate of Bágalkot of the offences of voluntarily