

The order of the Court will be that the Magistrate's decision in appeal be reversed, and that the appeal be transferred, for rehearing on its merits, to the Session Judge of Belgám. The appellant should continue at large on bail till the appeal is disposed of.

It should be pointed out to the Subordinate Magistrate that the examination of the complainant, on which the warrant for arresting the accused was issued, was not signed by the complainant, as required by Sec. 66 of the Criminal Procedure Code, and that the warrant of arrest was informal, inasmuch as it purported to authorise the police to take bail, but did not specify the amount.

District Magistrate's order reversed, and appeal remanded to the Session Judge of Belgám for retrial.

REG. V. DURGA'RA'M MA'DHAVRA'M.

June 16.

Fine by a Pound-keeper—Act XXVI. of 1850—Act III. of 1857, Sec. 6.

A fine levied by a pound-keeper is not a punishment imposed on conviction for an offence, and it is an error to hold that a person cannot be tried for an offence under Act XXVI. of 1850 because he has paid a fine under Sec. 6 of Act III. of 1857.

THE accused was tried before Mánikji Kávasji Enti, Magistrate F. P. at Broach, for the offence of having, in violation of Sec. xxxviii., cl. 16, of the Broach Municipality Rules, allowed his cow to stray about the City without a keeper. He was acquitted, for the following reasons recorded by the Magistrate:—

“He (the accused) admits the truth of the complaint, but objects to being convicted of the offence after having paid a fine under Sec. 6 of Act III. of 1857. The complainant himself admits that the fine was actually paid by the accused.”

The Magistrate, being of opinion that the payment of poundage exonerated the accused from any further proceedings, acquitted him.

The Magistrate of the District, J. G. White, being of opinion that the acquittal of the accused could not be supported, referred the case to the High Court for its orders.

1870.

REG.
v.

VYANKATRA'V
SHRINIVA'S.

1870
REG.
v.
DURGA'RA'M
MA'DHAVRA'M.

The High Court had also sent for the record and proceedings of the case upon an examination of the monthly Criminal Returns of the district of Broach.

The case was reviewed by GIBBS and MELVILL, JJ.

PER CURIAM:—A fine levied by a pound-keeper is not a punishment imposed on conviction for an offence. The Magistrate F. P. was in error in holding that a person cannot be tried for an offence under Act XXVI. of 1850 because he has paid a fine under Sec. 6 of Act III. of 1857. The law (Criminal Procedure Code, Sec. 55) only provides that “a person who has once been tried for an offence and convicted or acquitted of such offence shall not be liable to be tried again for the same offence.” No order by this Court is necessary, as the Magistrate of the District has it in his power to take such steps as he may see fit.

No order.

June 30.

REG. V. VA'HA'LA' JETHA'.

Prisoner's Confession—Confession taken before Magistrate not having jurisdiction to try—Crim. Proc. Code, Sec. 149.

The words “a Magistrate” in Sec. 149 of the Code of Criminal Procedure mean “any Magistrate,” and not merely “the Magistrate having jurisdiction.”

The practice of taking prisoners before Magistrates not having jurisdiction in the case, for the purpose of getting a confession recorded, is not generally desirable, but such a confession is legally admissible in evidence when duly proved.

THIS was a reference from A. A. Borradaile, Magistrate of the District of Ahmedábád, submitting an extract from the finding of W. M. P. Coghlan, Session Judge of Ahmedábád, in the case of the accused, who was tried and convicted of murder, and sentenced to transportation for life. The District Magistrate stated—

“The question is the legality of taking, and the weight to be attached to, confessions made before Magistrates not having jurisdiction.

“Mr. Coghlan argues against the legality, and declines to accept as judicial confessions all admissions made before Magistrates other than those vested with powers to commit.