

REG. V. MANGLA' BHULIA' *et al.*1870.  
Sept. 29.

*Case submitted to District Magistrate—Reference to Magistrate F. P.—  
Crim. Proc. Code, Sec. 276.*

It is competent for the Magistrate of a District to refer for trial to a Full Power Magistrate a case submitted, under Sec. 276 of the Code of Criminal Procedure, to such Magistrate of the District by a Subordinate Magistrate.

**M**ANGLA' BHULIA' and Dattá Pírú, who were respectively tindal and sailor on board a vessel in which cotton was shipped from Bháunagar, were charged with having stolen about four *mans* of cotton from the said vessel. On being apprehended by the police, they were sent to the Subordinate Magistrate of Balsád, charged under Sec. 405 of the Indian Penal Code. The Subordinate Magistrate, considering that the case properly fell under Sec. 407 of the Penal Code forwarded it to the District Magistrate of Súrat. The District Magistrate, under Sec. 276 of the Code of Criminal Procedure, referred the case for trial to W. Porteous, Full Power Magistrate in the Súrat District, who thereupon tried the prisoners, and found that Manglá Bhuliá and Dattá Pírú were guilty of the offence of stealing cotton from a vessel used for the custody of property (under Sec. 380 of the Indian Penal Code), and sentenced Manglá Bhuliá to nine months' rigorous imprisonment, and Dattá Pírú to six months' rigorous imprisonment.

Upon a review by the High Court of the criminal returns of the Full Power Magistrate in the Súrat District, the record and proceedings in the case were called for, to determine whether a District Magistrate can refer a case submitted to him by a Subordinate Magistrate, under Sec. 276 of the Code of Criminal Procedure.

PER CURIAM (GIBBS and MELVILL, JJ.) :—The words of Sec. 276 are—"If in the course of a trial before a Subordinate Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused

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person for trial, he shall stay proceedings, and submit the case to the Magistrate to whom he is subordinate, or to such other Magistrate having jurisdiction "as the Magistrate of the District may direct. The Magistrate to whom the case is submitted shall either try the case himself, or refer it to any officer subordinate to him having jurisdiction, or he may commit the accused person for trial."

It appears clear from this section that the Magistrate of the District may refer to a Full Power Magistrate a case submitted under Sec. 276 of the Code of Criminal Procedure. The Court, therefore, sees no grounds for interference, and directs that the records and proceedings be returned.

REG. v. KUSA' valad LAKSHMAN.

Nov. 17.

*Juvenile Offender—Whipping—Act VI. of 1864, Sec. 3.*

Section 3 of Act VI. of 1864 (the Whipping Act) applies to juvenile as well as to adult offenders.

That section does not apply to cases in which the second conviction is for an offence committed previously to the first conviction.

**T**HIS was a case referred by A. C. Watt, Acting Session Judge of Puṇá, for the orders of the High Court.

The prisoner Kusá and a boy named Káshirám, aged respectively fifteen and twelve years, were tried for theft by H. F. Aston, 2nd Class Subordinate Magistrate at Puṇá, and were convicted of that offence. As the Magistrate considered their offence to call for a severer punishment than he was competent to adjudge, he submitted the proceedings to the Magistrate of the District.

Upon a review of the proceedings in the case, and the record of a previous conviction for theft committed by the same persons a few days before the one under inquiry, the District Magistrate considered that the younger boy, Káshirám, had been tempted and led away by the elder, Kusá. As Káshirám had been already ordered in the former case to be bound as an apprentice in the David Sassoon Reformatory, the District Magistrate reversed the conviction in his case,