

1870.
REG.
v.
BA'PU PARBAT.

ordered a new trial on a charge of having committed adultery within four months of the date alleged. The Assistant Judge held that the words "or about" were merely formal, and that the real charge was that the accused had committed an overt act of adultery on the 10th of December 1869.

W. M. Coghlan, Session Judge at Ahmedábád, referred the proceedings to the High Court, under Sec. 434 of the Code of Criminal Procedure, as he thought that the order directing a new trial was illegal under the circumstances. He considered the words "or about" in the charge as material, and not merely formal, and that the widest reasonable limits must be assigned to them.

The Court (GIBBS and LLOYD, JJ.) disposed of the reference on this day.

PER CURIAM :—That the order directing the new trial under the circumstances was illegal. The trying authority, when he considered the facts did not support the charge on which the prisoner was tried, might have altered it, but had no power to order the Magistrate to recommit the accused.

June 28.

REG. V. PA'RVATI.

Practice—Acquittal—Recording Opinion of Assessors.

When a judgment of acquittal is recorded, it is not necessary to record the opinions of the Assessors.

THIS was a point of law referred, under Sec. 404 of the Code of Criminal Procedure, for the opinion of the High Court, by W. M. Coghlan, Acting Session Judge of Tháná.

It arose in the case of *Reg. v. Párvati* and another, tried at the Kulábá sessions, and was whether, when a judgment of acquittal is recorded under Sec. 372 of the Code of Criminal Procedure, it is proper to take and record the opinions of the Assessors. The Acting Session Judge was of opinion that it was not necessary to do so.

PER CURIAM (in chambers) :—When a judgment of acquittal is recorded under Sec. 372 of the Code of Criminal Procedure, it is not necessary to take and record the opinions of the Assessors.