

1872.
Feb. 29.

[APPELLATE CRIMINAL JURISDICTION.]

REG. v. SADU DA'DA'BHAI.

Smuggled Opium—Appeal from decision of Magistrate of District—Regulation XXI. of 1827, Section 7—Crim. Proc. Code, Sections 21 and 409.

Although the effect of Section 21 of the Code of Criminal Procedure is to give exclusive original jurisdiction to the Magistrate of the District in the trial of cases under Section 7 of Regulation XXI. of 1827 for abetting the smuggling of opium, that Section (21) does not exclude the appellate jurisdiction vested in the Court of Session by Section 409 of the Code.

THIS was a reference made by A. A. Borradaille, District Magistrate of Ahmadabad, for the opinion of the Court. He stated that he had decided a case of keeping smuggled opium, under Section 4 of Regulation XXI. of 1827, and that the Sessions Judge had entertained an appeal against his decision. He added that the whole tenor of the High Court's decision in the case of *Reg. v. Lakhū Sakru (a)* was to affirm that the Criminal Judge of 1827 was not represented by the Sessions Judge of the present time. He, therefore, requested the opinion of the High Court on the question of appeal.

The reference was considered by Gibbs and Melvill, JJ.

PER CURIAM:—The Court is of opinion that, although the effect of Section 21 of the Code of Criminal Procedure is (as already decided by this Court) to give exclusive original jurisdiction to the Magistrate of the District in the trial of cases under Section 7 of Regulation XXI. of 1827, yet it does not exclude the appellate jurisdiction vested in the Court of Session by Section 409 of the Code.

(a) 8 Bom. H. C. Rep. Cr. Ca. 118.