

## [APPELLATE CRIMINAL JURISDICTION.]

*Criminal Reference No. 140 of 1873.*1873.  
October 29.

## REG. v. RANCHHOD DAYA'L.

*Second Class Magistrate—Jurisdiction—Criminal Procedure Code, Section 473—Indian Penal Code, Sec. 188.*

A Second Class Magistrate, who issues an order under Sec. 518 of the Criminal Procedure Code, has no jurisdiction to punish for its disobedience by reason of Sec. 473 of the Criminal Procedure Code.

THIS case was referred for the orders of the High Court by the District Magistrate of Broach with the following remarks:—

“The Second Class Magistrate of Ankleshvar, Azam Amritram Chintamanshankar, served Ranchhod Dayal with a notice, and issued an order under Sec. 518 of the Criminal Procedure Code for him to remove a local nuisance within seven days. The order having been disobeyed, the same Magistrate proceeded to try Ranchhod Dayal and sentenced him, under Sec. 188 of the Indian Penal Code, to pay a fine of one rupee, or, in default, to suffer two days' simple imprisonment. The fine was paid.

“As it appears to me that, under Sec. 473 of the Criminal Procedure Code, the Magistrate had no authority to try the case, I submit the proceedings for the orders of the High Court.”

The reference was considered by MELVILL and NANA'BHA'I HARIDA'S, JJ., on the 29th October 1873.

PER CURIAM:—Conviction and sentence annulled for the reasons stated by the District Magistrate. The attention of the Second Class Magistrate should also be called to the provisions of Sec. 188 of the Indian Penal Code, which require that it should be proved, not only that an order has been disobeyed, but that the disobedience causes, or tends to cause, obstruction, annoyance, or injury, or risk of the same, to any person lawfully employed.