

## [APPELLATE CRIMINAL JURISDICTION.]

*Criminal Reference No. 84 of 1876.*

REG. v. PARSA'PA' MA'HA'DEVA'PA'.

1876.  
August 17.

*Contempt of Court—Criminal Procedure Code (Act X. of 1872), Sections 435, 436, 471, 472, and 473—Nuisance—Injunction to discontinue—Indian Penal Code (Act XLV. of 1860), Section 291.*

Section 473 of the Code of Criminal Procedure, which, except as therein provided, forbids a Court to try any person for an offence committed in contempt of its own authority, is not limited to offences falling under Chapter X. of the Indian Penal Code, but extends to all contempts of Court.

*Reg. v. Kultaran Singh* (I. L. R. 1 All. 129) dissented from.

7 Mad. H. C. Rep. Ap. XVII. approved.

*Reg. v. Navranbeg Dulabeg* (10 Bom. H.C. Rep. 73) followed.

THIS was a reference made by A. R. Macdonald, Magistrate of the District of North Kanara, under Section 297 of the Code of Criminal Procedure. The accused was tried and convicted by the Second Class Magistrate of Haliyál for continuance of nuisance after injunction to discontinue it under Section 291 of the Indian Penal Code. The injunction having been issued by the Magistrate himself, Mr. Macdonald doubted the legality of the trial before that Magistrate; and hence referred the case for the orders of the High Court.

The case was heard by MELVILL and NA'NA'BHA'I HARIDA'S, JJ.

Neither the accused nor the Crown was represented.

PER CURIAM :—The Court does not think that it can follow the Allahabad High Court<sup>(1)</sup> in holding that Section 473 of the Criminal Procedure Code, when it says that no Court shall try any person for an offence committed in contempt of its own authority, is to be limited to offences falling under Chap. X. of the Indian Penal Code. The reasons given by the Madras High Court<sup>(2)</sup> for extending the section, at all events, to the offences against public justice and the offences relating to documents mentioned in Sections 468 and 469 of the Criminal Procedure Code are, in the Court's mind, conclusive; and a Division Bench of this Court<sup>(3)</sup>

(1) *Queen v. Kultaran* (I. L. R. 1 All. 129).

(2) Proceedings, 24th March 1873. (7 Mad. H. C. Rep. Appendix XVII.)

(3) *Reg. v. Navranbeg* (10 Bom. H. C. Rep. 73).

1876.

REG. v.  
PARSA'PA'  
MA'HA'  
DEVA'PA'.

seems to have been of opinion that the section must be held applicable to all contempts of Court. If the limitation imposed upon the section by the Allahabad Court be removed, as the Court thinks it must, the section must necessarily be held applicable to the case now before it; for the continuance of a nuisance, after the Magistrate's injunction to desist, is clearly a contempt of the Magistrate's authority.

The Court considers it must, therefore, annul the conviction and sentence.

*Note.*—See in addition to the cases cited in this judgment the case of *Sufatollah* (22 Calc. W.R. 49 Cr. Rul.), *Queen v. Jagat Mal* (I.L.R. 1 All. 162), *Queen v. Gur Baksh* (I. L. R. 1 All. 193), and *Reg. v. Guji Kom Ranu* (I. L. R. 1 Bom. 311).

## [APPELLATE CRIMINAL JURISDICTION.]

*Reference No. 63 of 1876.*

August 10.

REG. v. LOCHA' KA'LA'.

*Extradition—The Code of Criminal Procedure (Act X. of 1872), Section 157—  
Warrant—Police Officer.*

It is not essential to the validity of a warrant issued under Section 157 of Act X. of 1872 that the magistrate, issuing it, should be, at the time he issues it, within the local limits of his jurisdiction. He may issue such a warrant from a place in foreign territory.

THIS was a reference from A. Borradaile, Magistrate of Ahmedabad, under Section 296 of the Code of Criminal Procedure.

The Magistrate stated that Major Wodehouse, Assistant to the Political Agent in Kattywar, and Magistrate F. C. in the Ahmedabad District, issued from Camp Wadhwan, a place in Kattywar, a warrant for the apprehension of a non-European British subject in respect of an offence committed in Kattywar. The warrant was addressed to the Fouzdar of Palyad who, though Palyad is in foreign territory, was invested with police powers