

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

extending over Chowria, a village of the Dhandhuka Taluka of the Ahmedabad District, where the accused was captured in execution of the warrant. Mr. Borradaile was of opinion that the warrant having been issued from foreign territory was illegal and should be set aside. He considered "that the offender being a resident of the Ahmedabad District should only have been arrested on a warrant issued by the Political Agent, under Section 11 of Act XI. of 1872, or, Major Wodehouse having been duly authorized (*vide* notification dated 10th August 1875, published at page 802 of the *Bombay Government Gazette*, dated 12th idem), on a warrant issued by Major Wodehouse, under Section 157 of the Code of Criminal Procedure, *within* the district, the issue of a warrant being a portion of the inquiry which Section 63 of the Criminal Procedure Code directs shall be made in the district. The warrant was executed by a foreign fouzdar who has not the charge of a police station in British territory. Section 161, Criminal Procedure Code, orders that a warrant shall ordinarily be directed to a police officer, but if no police officer be immediately available, the Magistrate may direct it to any other person. In the present case the police of this district were immediately available."

1876.

REG. v.
LOCHA'
KA'LA'.

The reference was heard by KEMBALL and NA'NA'BHA'I HARIDA'S, JJ.

PER CURIAM:—Section 63 of the Criminal Procedure Code has no application to the present case. The offence having been committed in a foreign territory, the presence of Major Wodehouse in the portion of Ahmedabad District in which he has jurisdiction was unnecessary for the purposes of issuing the warrant.

Major Wodehouse having jurisdiction in the place where the offender was found, it was competent to him, under the provisions of Section 157 of the Criminal Procedure Code, to issue his warrant for the arrest of such offender.

The Pályád Thánadár appears to have been invested with police powers extending over the village where the accused was arrested. The issue of the warrant, therefore, to him was perfectly legal.