

1882

KALIDAS
v.
THE MUNICIPALITY OF
DHANBURA.

The decrees of the Courts below are accordingly amended, and the claim allowed in full, with costs on defendant throughout.

Decree amended.

APPELLATE CRIMINAL.

Before Mr. Justice Melvill and Mr. Justice Pinhey.

September 7.

EMPRESS AGAINST MAHADU.*

*Indian Penal Code, Act (XLV of 1860), Section 75—Enhanced Punishment—
Transportation for life—Imprisonment.*

The accused having been previously convicted of offences punishable, under Chapter XII or Chapter XVII of the Indian Penal Code, with imprisonment for a term of three years or upwards, was subsequently convicted of an offence under one of these chapters punishable with imprisonment which may extend to three years, and sentenced to imprisonment for seven years.

Held that a sentence of transportation for seven years was illegal. Under section 75 of the Indian Penal Code the accused might be transported for life, but he could not be imprisoned for a longer period than six years.

THIS was an appeal against the sentence of imprisonment for seven years passed by C. E. G. Crawford, Assistant Judge, Ratnagiri, on a conviction of theft.

The accused pleaded guilty to a charge of theft and to a number of previous convictions of offences falling under Chapter XII or Chapter XVII of the Indian Penal Code punishable with imprisonment of either description for a term of three years or upwards.

No one appeared on behalf of the accused or the Crown.

The judgment of the Court was delivered by

MELVILL, J.—The sentence is illegal. Under section 75, Indian Penal Code, the prisoner might have been sentenced to transportation for life, but not to imprisonment for more than six years. The prisoner has not yet been sentenced to any long term of imprisonment, and the Court considers a sentence of three years' imprisonment to be sufficient. See *Reg. v. Gopala Santu*, Criminal Rulings, 21st November, 1871.

* Criminal Appeal, No. 120 of 1882.
