

1913.

EMPEROR  
v.  
HARIDAS  
LAKHMIDAS.

That being so, it was, in our opinion, incumbent upon the accused under section 4 of the Act to take out another registration. Since he did not do so, he is liable to the penalty prescribed by section 13 as the punishment for an owner of a harbour-craft who is guilty of this omission. The result is that under that section the accused, who must be convicted of the offence imputed to him, is subject to a fine of Rs. 10, and following the decision in *Empress v. Mhasnya Rama*<sup>(1)</sup> we direct that he pay this fine of Rs. 10.

R. R.

(1) (1883) 7 Bom. 280.

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CRIMINAL REFERENCE.

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*Before Mr. Justice Heaton and Mr. Justice Shah.*

EMPEROR v. NANJI SAMAL.\*

1913.

August 28.

*Criminal Procedure Code (Act V of 1898), section 213—Committal of a case to the Court of Session—Reasons for committal to be given where the case can be tried by the Magistrate—Indian Registration Act (XVI of 1908), section 83, clause (2)—Irregularity—Illegality.*

Where a Magistrate, who could have tried the case himself under clause (2) of section 83 of the Indian Registration Act (XVI of 1908), committed it to the Court of Session without giving any reasons for committal:—

*Held*, that the reasons for committal must include not merely reasons for not discharging the accused, but reasons for sending him to the Court of Session, as the trial could be had either by the Magistrate himself or by the Court of Session; and that the omission to give the reasons was an illegality.

THIS was a reference made by E. Clements, Sessions Judge of Ahmedabad.

The accused was charged before the City Magistrate of Ahmedabad with an offence punishable under section 82A of the Indian Registration Act (XVI of 1908). The Magistrate, however, instead of trying the case himself

\* Criminal Reference No. 61 of 1913.

as he was competent to do under section 83 (2) of the Act, committed the case to the Court of Session without giving any reasons.

The Sessions Judge referred the case to the High Court for quashing the commitment, on the ground that the Magistrate had given no reasons for committing the case which was triable by himself.

The reference was heard.

*G. N. Thakore*, for the accused.

No appearance for the Crown.

HEATON, J. :—In this case the Magistrate, as appears quite plainly from clause (2) of section 83 of the Registration Act, could have tried the case himself but he committed it to the Court of Session. He did not however give any reason why he should commit it rather than try it himself. The law requires that reasons for commitment shall be recorded (see section 213 of the Criminal Procedure Code). In a case of this kind where the trial may either be by the Magistrate himself or by the Court of Session, I think that reasons for commitment must include not merely reasons for not discharging the accused, but reasons for sending him before the Court of Session. There has, therefore, been a failure to comply with the law. This no doubt would amount to no more than an irregularity if the case were one which plainly ought to be committed to the Sessions. But where, as appears here, the case is not one which ought to have been committed, then to commit without giving reasons is more than an irregularity. It is, it seems to me, an illegality.

For this reason I would quash the commitment and it follows the case will have to be disposed of by the Magistrate who committed it.

*Commitment quashed.*

R. R.

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