

*Before the Officiating Chief Justice (Mr. Justice Innes) and
Mr. Justice Busteed.*

PROCEEDINGS, 27TH SEPTEMBER 1877.

1877.
September 27

IN THE MATTER OF SUBBA AITALA AND ANOTHER.

Criminal Appeal—Presentation of.

A petition of appeal in a Criminal case may be presented to the Appellate Court by any person authorized by the appellant to present it.

UPON reading a letter from the Sessions Judge of South Canara referring the Proceedings of the late Acting Head Assistant Magistrate of that district in Criminal Appeal No. 32 of 1876, Counsel not appearing, the High Court made the following

RULING:—In this case the Head Assistant Magistrate has rejected an appeal from a sentence of a 3rd-class Magistrate on the ground that the appeal was presented after the time prescribed in the Limitation Act (IX of 1871), Schedule II, Article 152.

The judgment of the 3rd-class Magistrate was dated 11th July 1876. On the same date application was made for a copy and the copy was furnished on the 24th July, allowing for the delay incurred in granting a copy of the judgment the time for preferring an appeal expired on the 23rd August.

It appears from the order of the Head Assistant Magistrate (dated 26th October 1876) finally rejecting the appeal as barred by time that the appeal-petition was first presented on or about the 14th August, and that the Head Assistant Magistrate refused at that time to receive it on the ground that the person presenting it was not an authorized Pleader of any Court.

The appeal-petition was in time when presented on the 14th August, and the Head Assistant Magistrate was not justified in refusing to receive it on the ground that the person presenting it was not an authorized Pleader. The Code of Criminal Procedure affords no authority for the opinion that a petition of appeal may not be presented by any person authorized by the appellant to present it.

The order of the Head Assistant Magistrate rejecting the appeal is hereby annulled.