

## REVISIONAL CRIMINAL.

*Before Mr. Justice Martineau and Mr. Justice Campbell.*

THE CROWN, THROUGH MUNICIPAL COMMITTEE  
PANIPAT, Petitioner  
*versus*

1926

Oct. 11.

JASRAT MAL AND ANOTHER, Respondents.

Criminal Revision No. 265 of 1926.

*Punjab Municipal Act, III of 1911, sections 195, 199—  
Trial of accused for disregarding a valid notice by Municipal  
Committee to demolish certain projections on his building—  
whether Magistrate has power to countermand the Commit-  
tee's order.*

*Held*, that a Magistrate trying accused persons, under sections 195, 199 of the Punjab Municipal Act, for disregarding a valid notice by the Committee to demolish certain projections on a building is not competent to order the building to remain as it stands. The remedy of persons aggrieved by such notice is to appeal to the Commissioner under section 225 of the Act.

*Case reported by A. Latifi, Esquire, District Magistrate, Karnal, with his No. 603 of 6th February 1926.*

GHULAM MOHI-UD-DIN, for Petitioner.

SHAMAIR CHAND, for Respondents.

### THE REPORT OF THE DISTRICT MAGISTRATE.

*The facts of this case are as follows :—*

The accused in contravention of the terms of the sanction granted to them under section 193 of the Punjab Municipal Act by the Panipat Municipal Committee erected certain projections in a shop built by them. The Committee by due notice required the projections to be demolished. The accused disregarded the notice and were accordingly prosecuted by the Municipal Committee under sections 195/199 of the Punjab Municipal Act.

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The accused, on conviction by *Pandit* Kalyan Datt, Naib-Tahsildar, Panipat, exercising the powers of a Magistrate of the 3rd class in the District, were sentenced, by order dated 13th February 1925, under sections 195/199 of Act III of 1911, to a fine of Rs. 10 each, in default to undergo one week's simple imprisonment, each.

The fine has been recovered.

*The proceedings are forwarded for revision on the following grounds :—*

In the Magistrate's final order the following words occur :—

“*Makan mukamal ho chuka hai. Is ke banne se koi khas rukawat jalus waghaira men nahin hoti hai, is liye iske girae jane ka hukam namnasab hoga . . . . . makan badastur rahega.*”

The words are *ultra vires* and are an unjustifiable limitation of the Committee's rights. I recommend that they be expunged from the judgment.

The order of the High Court was delivered by :—

MARTINEAU J.—We agree with the District Magistrate that the trial Magistrate was not competent to direct that the building should remain, as the Municipal Committee had power under section 195 of the Municipal Act to issue a notice requiring the building to be demolished, the remedy of the persons aggrieved by the notice being to appeal to the Commissioner under section 225. We direct that the words referred to by the District Magistrate be expunged.

N. F. E.

*Revision accepted.*