

to be proved by direct evidence, they must all be stated on the face of the document, before the Court can draw a presumption of their having occurred : and these are the very three facts which are stated in the memorandum and certificate mentioned in Sections 122 and 346 respectively. This consideration leads us irresistibly to the conclusion that the Legislature must have intended that both the memorandum and the certificate should be attached to such confessions. The necessity of both these guarantees could not be better illustrated than by the confessions in the present case. All that is certified upon them, is that the Magistrate upon enquiry had reason to believe that they were made voluntarily. But there is nothing to show where, or by whom, or under what circumstances, they were recorded. For all that appears to the contrary, they may have been drawn up by the police, and then taken to the Magistrate for his certificate. We do not mean to suggest that this was the procedure, but the Magistrate's certificate that he believed the confessions to be voluntary is quite consistent with it. We have held in *Bai Ratan's* case⁽¹⁾ that when a confession taken under Section 122 is inadmissible in evidence, oral evidence to prove that such a confession was made, or what were the terms of the confession, is inadmissible also. We must, therefore, absolutely reject the confessions in this case, and as there is no other evidence, we must reverse the convictions. We do so with the less regret, because, even had the confessions been admissible, they are so full of reservations, contradictions, and inconsistencies, that we think we should have agreed with the assessors in acquitting the prisoners.

1876.

REG.
M.
SHIVYA.

[APPELLATE CRIMINAL JURISDICTION.]

REG. v. RA'MA' BHIVGOWDA'.

April 12.

The Code of Criminal Procedure (Act X. of 1872), Sections 314 and 13—Combined sentence for several offences—Confirmation—Appeal.

The aggregate of the sentences passed under Section 314 of the Code of Criminal Procedure in a case of simultaneous convictions for several offences, must be considered a single sentence for the purposes of confirmation or appeal.

(1) 10 Bom. H. C. Rep. 166.

1876.

REG.
v.
RA'MA' BHIV.
GOWDA'.

THE accused was tried and convicted of three several thefts by A. D. Pollen, Assistant Session Judge of Ratnágiri, and sentenced to three years' rigorous imprisonment for each offence, making in all a period of nine years.

An appeal was made directly to the High Court, the Assistant Judge not having passed the sentences subject to the confirmation of the Court of Session. The Session Judge also was of opinion that the sentences required no confirmation by himself.

The appeal came on for hearing before MELVILL and WEST, JJ. Neither the appellant nor the Crown was represented.

PER CURIAM:—The Court consider that the combined sentence passed under Section 314 of the Code of Criminal Procedure, in a case of simultaneous convictions for several offences, must be considered a single sentence for the purposes of confirmation or appeal. The sentence of nine years' rigorous imprisonment in the present case, therefore, requires confirmation by the Session Judge (Section 18). The proceedings are accordingly forwarded to the Session Judge for his order. Should he confirm the sentence wholly or in part, he should return the proceedings to this Court, in order that the appeal may be disposed of.

Order accordingly.

Note.—So held in *Reg. v. Gulám Abás* (12 Bom. H. C. Rep. 147).