

1884

RUPÁ  
JAGSHET  
v.  
KRISHNÁJI  
GOVIND.

and nothing to show that the Mahárája intended to establish it for the benefit of his sons or heirs or any body else in perpetuity."

We are of opinion, therefore, that the gift created a religious endowment, as, indeed, has been already presumably ruled by the learned Judges of this Court who decided Second Appeals Nos. 56 and 71 of 1880, confirming the decree of the District Judge, who had similarly construed the above gift. Such being the nature of the gift, the present suit, as it has been treated throughout without objection by the defendant, is not one by a party to the suit in which the sale was made to set aside the sale, but one by the trustee of the endowment to recover the property. We must, therefore, confirm the decree, with costs.

*Decree confirmed.*

## CRIMINAL JURISDICTION.

*Before Mr. Justice West and Mr. Justice Nánábhái Haridás.*

*In re THE PETITION OF BASA'PA AND OTHERS.\**

1884  
December 24.

*Jurisdiction—Judge—Bias—Magistrate's jurisdiction where complainant is his private servant—Legality of conviction and sentence passed by such Magistrate in such a case.*

The mere circumstance that a trying Magistrate is the master of the complainant, does not deprive the Magistrate of his jurisdiction, though it is expedient that such a complaint should be referred to another Magistrate.

ON the 9th September, 1884, at a summary trial before J. J. Hearn, Magistrate of the First Class at Kaládgi, the petitioners were charged with the offence of causing hurt to one Sayad. They were convicted of the offence, and sentenced to pay fine, or suffer rigorous imprisonment in default. The Magistrate further ordered, under section 106 of the Criminal Procedure Code (Act X of 1882), the petitioners to be bound in certain sums for a period of one year to keep the peace.

The petitioners presented the present petition to the High Court, and, in praying for reversal of the above sentence and order, stated, among other things, that the complainant was a private servant of the convicting Magistrate, and submitted that the latter ought not, therefore, to have tried the case.

\*Application for Review, No. 255 of 1884.