cant had already left, leaving a notice on the walls of the Court-house. Under these circumstances we uphold the conviction, but consider that the imprisonment already suffered is sufficient punishment for the offence. We accordingly remit the remainder of his sentence. A moderate fine would have been a more appropriate sentence.

Order accordingly.

REVISIONAL CRIMINAL.

Before Mr. Justice Nánábhái Harídás and Sir W. Wedderburn, Bart., Justice.

1885.
August 18.

IN RE THE PETITION OF BA'LKRISHNA SHA'LIGRA'M.*

Act XIII of 1859, Sec. 2—Sub-contractor, liability of, for breach of contract for work undertaken upon an advance — Workman.

The petitioner, who as sub-contractor had engaged to do certain work for which he was paid an advance, but did not himself work, was convicted by a Magistrate, under section 2 of Act XIII of 1859, of the offence of breach of contract, and sentenced to undergo one month's imprisonment in default of his failure to fulfil the contract.

Held, that he was not an artificer, workman or labourer within the meaning of section 2 of Act XIII of 1859. The conviction and sentence were accordingly set aside.

AT a summary trial held on 13th June, 1885, before A. H. Plunkett, City Magistrate at Poona, the petitioner, who was a sub-contractor under one Bejanji Chándabhái, was charged, on a complaint by the said Bejanji, with the offence of abandoning work for which an advance had already been paid to the petitioner, and convicted under section 2 of Act XIII of 1859, and sentenced to undergo one month's imprisonment with hard labour in default of performing the work contracted for within fifteen days from the date of the Magistrate's order.

The petitioner made the present application to the High Court under its revisional jurisdiction, alleging that the Magistrate's order was contrary to law, as the petitioner was not a labourer, artizan or artificer within the meaning of Act XIII of 1859, and praying that the order should be set aside and the conviction and sentence annulled.

*Criminal Review, Petition 186 of 1885.

Gangárám B. Rele for the petitioner.—The Magistrate's order was wrong. The petitioner being a sub-contractor, and not a person who actually worked, could not be held liable under section 2 of Act XIII of 1859. The Magistrate had no jurisdiction to try the petitioner under that Act—see *Gilby* v. *Subbu Pillai*[1]; *Amirkhán valad Himat Khán's* case[2].

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1885.

IN *RE* THE
PETITION OF
BÁLKRISHNA
SHÁLIGRÁM.

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NÁNÁBHÁI HARIDÁS, J.—The petitioner is not a workman, labourer or artificer within the meaning of section 2 of Act XIII of 1859—see *Gilby* v. *Subbu Pillai*[1]. The order of the Magistrate is reversed.

(1) I. L. R., 7 Mad., 100.   (2) Cr. Rul. (Bom.) of 24th July, 1884.

REVISIONAL CRIMINAL.

Before Mr. Justice Nánábhái Haridás and Sir W. Wedderburn, Bart., Justice.

QUEEN-EMPRESS AGAINST MANCHERJI KÁ'VASJI SHA'PURJI.*

Lottery—Foreign lottery—Advertisement—Newspaper—Publisher—Indian Penal Code (XLV of 1860), Sec. 294A.

<div style="text-align:right;">

1885.

August.

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The expression "in any such lottery" in paragraph 2 of section 294A of the Indian Penal Code (XLV of 1860) means "any lottery not authorized by Government," and includes a foreign lottery.

The word "publisher" in the above paragraph includes both the person who sends a proposal as well as the proprietor of a newspaper who prints the proposal as an advertisement.

The proprietor of a Bombay newspaper who published an advertisement in his paper relating to a Melbourne lottery was accordingly held to be punishable under section 294A of the Indian Penal Code.

THIS was a reference under section 434 of the Code of Criminal Procedure Code (Act X of 1882), made by P. Ryan, Presidency Magistrate, Bombay. The reference was in the following terms :—

"I have the honor to submit, for the opinion of the High Court, a question of law which has arisen in the hearing of a case pending before me, in which Mr. Mancherji Kávasji Shápurji is charged with publishing an advertisement in the *Satya Mitra*,

* Criminal Reference, No. 80 of 1885.