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v.
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governed until its final disposal by the Court in which it was pending in respect of such matters, by the laws and rules in force immediately before the commencement of the Act. What was pending at the commencement of the Act was Appeal No. 419 of 1920, and it is even doubtful whether the respondent seeking execution for the costs of the appeal would not have been allowed separate pleader's fees under the Regulation. However it is not necessary to consider that, because we think that this Darkhast was a proceeding instituted after the commencement of the Act, and it cannot be treated as a proceeding pending in the Court of the Subordinate Judge at the commencement of the Act. It would follow then that under section 18 (1) of Bombay Act XVII of 1920, the respondent would be entitled to the fee prescribed under the 3rd Schedule. Therefore, the appeal must be allowed. We now make the order which should have been made by the Subordinate Judge that the appellants in Appeal No. 419 of 1920 should pay the costs of the Darkhast, and they must also pay the costs of this appeal.

Decree set aside.

J. G. R.

CRIMINAL REVISION.

*Before Sir Norman Macleod, Kt., Chief Justice, and
Mr. Justice Shah.*

IN RE NAGJI DULA^o.

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Criminal Procedure Code (Act V of 1898), section 439—Sentence, enhancement—Application by private complainant not competent.

Under the Code of Criminal Procedure a private party is not entitled to apply to the High Court to enhance a sentence passed by a subordinate Court. He can only draw the attention of Government to the sentence.

^oCriminal Revisional Application No. 317 of 1923.

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DULA,
Ex re.

THIS was an application made under the Criminal Revisional Jurisdiction to enhance sentences passed by Natvarsingji, Honorary Magistrate, First Class, at Amod.

Three persons were tried for offences punishable under section 324 and sections 324/114, Indian Penal Code. One of them was discharged. The remaining two admitted their guilt and pleaded for mercy. The trying Magistrate convicted them and sentenced them to pay fines of Rs. 40 and Rs. 15 respectively.

The complainant applied to the High Court for enhancement of the sentences.

M. H. Mehta, for the applicant.

M. T. Telivala, amicus curiæ, for the accused.

MACLEOD, C. J. :—Three persons were charged before the Honorary First Class Magistrate of Amod with having committed an offence under section 324 and section 324 read with section 114, Indian Penal Code. The first accused was discharged. The second and third accused voluntarily confessed the offence and asked for mercy. The Magistrate said : “ Considering the facts mentioned above and that both the accused have voluntarily confessed the offence, I am inclined to be lenient with them. Besides the circumstances of the case also require me to be carefully moderate in passing the punishment.” Accused No. 2 was accordingly sentenced to pay a fine of Rs. 40, and in default suffer simple imprisonment for one month. Accused No. 3 was sentenced to pay a fine of Rs. 15 and in default to be imprisoned for one week.

The complainant applies to this Court under section 439, Criminal Procedure Code, that the sentences should be enhanced. Speaking for myself, I do not think that according to any view we may take of our powers under the Code of Criminal Procedure a

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private party is entitled to come to this Court and ask it to enhance a sentence passed by a subordinate Court. A District Magistrate or a Sessions Judge or the Government Pleader may draw our attention to a sentence with a view to its being enhanced. We may also of our own motion send for the record and take action with a like object. But it is not for a private complainant to take any such action. If he considers a sentence unduly lenient he should draw the attention of Government to the fact. We think it should be definitely ruled as a matter of practice that no such application by a complainant to enhance a sentence should be entertained. The Rule is discharged.

Rule discharged.

R. R.

CRIMINAL REVISION.

*Before Sir Norman Macleod, Kt., Chief Justice, and
Mr. Justice Shah.*

IN RE NINGAPPA RAYAPPA GHOTADKI*.

1924.

January 16.

Criminal Procedure Code (Act V of 1898), sections 195, 203—Indian Penal Code (Act XLV of 1860), sections 182, 211—Complaint, dismissal of—Complainant not examined—Sanction to prosecute complainant for false charge—High Court—Revision—Dismissal of complaint can be revised by High Court in sanction proceedings.

Where a complaint for a criminal offence is dismissed by the Magistrate without examining the complainant as required by section 203 of the Criminal Procedure Code, it is not permissible to the Magistrate to sanction the prosecution of the complainant under sections 182 and 211 of the Indian Penal Code.

On an application to revise a sanction to prosecute, the High Court can go into the question whether the order dismissing the complaint was rightly made.

APPLICATION under Criminal Revisional Jurisdiction against an order passed by Mr. C. H. Blathwayat, District Magistrate of Belgaum, upheld by Mr. C. E. Palmer, Sessions Judge of Belgaum.

* Criminal Revisional Application No. 224 of 1923.