

1866
 IN THE CASE
 OF WAZIR
 SING.

GLOVER, J.—We think that the Sessions Judge's order for commitment should be quashed.

The offence of which the accused had been convicted by the Magistrate was, as is admitted by the Sessions Judge, one triable by a Magistrate; and therefore it was beyond the power of the superior Court to annul the conviction and order a commitment.

Section 435, Act VIII. of 1869, refers only to cases which are not triable by a Magistrate, and in which therefore he had exercised a jurisdiction that did not belong to him.

1869.
 Sept. 1

Before Mr. Justice Glover and Mr. Justice Mitter.

THE QUEEN v. TULSI DOSAD (PRISONER).

Evidence of Approver.

3 B. L. R. 21.

The evidence of an approver is not sufficient to convict a person charged with an offence.

MITTER, J.—I am of opinion that this conviction cannot be supported. The only evidence against the prisoner is that of the approver Ganga Dosad, and as there is nothing on the record to corroborate that evidence, the prisoner ought to have the benefit of the Full Bench Ruling in the case of *Elahi Buksh* (1). It is true that a *sindmaree* was found by the Police in the court-yard of the prisoner's house, but this circumstance cannot be regarded as corroborative of the approver's evidence. It does not "connect or identify the prisoner with the particular offence" of which he had been accused, and it cannot therefore be accepted as legal corroboration under the ruling above referred to.

For the above reasons, I would set aside the judgment and sentence passed by the Court below, and direct the immediate release of the prisoner.

GLOVER, J.—I also think that the evidence against the prisoner is insufficient.

He is acquitted and released.

[1] Criminal Appeal, No. 75 of 1866; May 29th, 1866.