

prisoner went away without waiting to see the effect of them, without staying to see that he had killed the deceased out-right. There was no mutilation and no wanton cruelty on the prisoner's part. The offence of which the prisoner should have been found guilty is culpable homicide not amounting to murder. I think a sentence of eight months' imprisonment to be computed from the date of his sentence by the Sessions Court will be amply sufficient to meet the ends of justice.

JACKSON, J.—I quite concur.

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Power of Sessions Judge—False Evidence—Penal Code, ss. 193, 194.

The Sessions Judge has no power to commit a man for having given false evidence before the Magistrate, but he can commit him for having given false evidence in his own Court.

In the trial of a prisoner for murder, a witness stated on oath before the Sessions Court that another had committed the murder, whereas before the Magistrate he had stated as was the fact that the prisoner had committed the murder.

Held, that such witness was guilty under section 193, and not under section 194 of the Penal Code, as he did not know that he would cause a conviction for murder.

JACKSON, J.—The Judicial Commissioner has now proved the deposition which the prisoner gave before the Sessions Court in the trial of Mohan Lal for murder. In that deposition, the prisoner stated that one Dava had cut down his aunt Patti. It is proved that before the Magistrate he had stated that Mohan Lal had committed the murder. The other evidence taken in the case also proves that Mohan Lal committed the offence. Finally, the prisoner in his defence has admitted that his deposition before the Judicial Commissioner was false, and that before the Magistrate was the true statement. The prisoner is therefore guilty of having given false evidence before the Judicial Commissioner, but I think his offence falls within section 193 and not section 194. The prisoner, when he made that false deposition, did not know that he would cause, or know it to be

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likely that he would cause Dava to be convicted of the offence of murder. In fact in giving that deposition in the trial of Mohan Lal, he could not possibly cause the conviction of Dava of murder. The offence, however, tending as it might have done to throw suspicion on an innocent person of the murder, which the prisoner knew was committed by Mohan Lal, was of a more than usually grave description. I would therefore sentence the prisoner to two years' rigorous imprisonment.

I have confined my attention to the deposition made before the Judicial Commissioner, because a Sessions Court has authority to commit only for perjury committed before such Sessions Court. It has no authority to commit for perjury committed before the Magistrate. It follows that the charge for perjury before the Magistrate framed by the Judicial Commissioner was irregular.

NORMAN, J.—I concur in reducing the sentence on the grounds stated above.

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THE QUEEN v. MATI KHOWA.

Powers of Judicial Commissioner to Commit—False Deposition—Alternative Statements.

A Judicial Commissioner has no power under section 172 of the Code of Criminal Procedure to commit a witness for a false deposition given before the Assistant Commissioner.

See also,
 13 B. L. R.
 325.

The evidence of a writer in the Judicial Commissioner's Office to the effect that "the document shewn to him is a deposition taken before the Assistant Commissioner; it appears to have been taken in due form upon solemn affirmation and is attested by the signature of the Assistant Commissioner," is not sufficient evidence of the prisoner having duly deposed.

Per NORMAN, J.—*Query* notwithstanding the decision of the Full Bench as to the correctness of convictions for perjury upon alternative statements

In an alternative charge that the statement of the prisoner before the Assistant Commissioner was false, or that his statement before the Judicial Commissioner was false, his statement before the Judicial Commissioner was fully proved, but there was no