

On receiving this explanation, the Judge, on the 18th March 1871, recorded the following remarks :—

The Magistrate has given very good grounds for his proceeding in the explanation herewith; but as the ruling he quotes appears to me to clash with the High Court ruling of 24th August 1868 (1), as well as with that of 10th July 1869 (2), I am of opinion that these remarks must be sent on to the High Court:

(1) *Before Mr. Justice Loch and Mr. Justice Glover.*

The 24th August 1868.

THE QUEEN *v.* BHAGABATI SUTTI-
RAN AND OTHERS.*

JUDGMENT was delivered by

GLOVER, J.—The Deputy Magistrate's order of the 13th of May, dismissing the complaint, under section 259 of the Criminal Procedure Code, is clearly illegal.

The charge made was one of criminal misappropriation, in which the Deputy Magistrate exercised the discretion allowed him by section 248 of the Code, and issued a summons, in the first instance, against the persons complained against, instead of a warrant.

But the mere fact of a summons having been issued did not bring the case within the purview of Chapter XV of the Code, or allow the Deputy Magistrate to dismiss the complaint under section 259, because the complainants do not appear on the day appointed. The case remained subject to the rules laid down in Chapter XIV of the Code, and there is no provision in that chapter for the dismissal of complaints on account of non-attendance of complainants.

* Reference under section 434 of the Code of Criminal Procedure and Circular Order, No. 18, dated the 15th July 1852, by the Sessions Judge of Beerbhoom.

† Reference under section 434 of the Code of Criminal Procedure and Circular Order, No. 18, dated the 15th July 1853 by the Sessions Judge of Sylhet.

The Deputy Magistrate's order is therefore quashed, and the charge will be proceeded with in the usual course:

Before Mr. Justice L. S. Jackson and Mr. Justice Markby.

The 10th July 1869.

THE QUEEN *v.* BIDUR GHOSH.*

THE facts of this case were as follows:—One Dhan Chang, on the 18th March, complained at the Chattak police station, that Bidur Ghosh, Sheikh Adil, and others, had wrongfully confined his relative Lochan Chang for the purpose of extorting money. The police entered the case under section 342, and though they reported it true, sent it up in B. form, as they said it was not proved. On April 1st, the Acting Magistrate, Mr. Peterson, ordered the papers to be filed, but on April 2nd, Lochan Chang himself presented a petition, stating that he had been confined in various places to make him pay his rent, and having been released by the police, now brought a charge under sections 342 and 347.

The police reports were examined, and on April 6th, the deposition on oath of Lochan was taken, and sum-

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TAKI MAHO-
MED MANDAL
v.
KRISHNA
NATH RAI.