

*Before Mr. Justice Lock and Mr. Justice Glover.*

THE QUEEN *v.* MAHENDRANARAYAN BANGABHUSHAN\* 1868  
July 13  
*Act XXV of 1861, ss. 411, 434, & 436—“Accused Person”—Power of Court*  
*of Session to admit to Bail.*

A person sentenced to one month's imprisonment by a Magistrate, from which sentence no appeal is allowed under section 411 of Act XXV. of 1861, is not an accused person within the meaning of section 436 of the same Act, so as to be admitted to bail by the Court of Session, when his case is referred to the High Court, under section 434 of the same Act.

THE prisoners were charged with having ploughed up paddy land alleged to be held and cultivated by the prosecutor. The Joint Magistrate found them guilty of having committed mischief, under section 426 of the Penal Code, and sentenced each to one month's rigorous imprisonment. The Sessions Judge referred the case for the orders of the High Court, under section 434 of Act XXV. of 1861, and at the same time submitted the following questions: “Whether, under section 436 of Act XXV. of 1861, the Court of Session has power to release, on bail, any ‘accused person,’ on the ground that when a sentence has been referred to the High Court, under section 434, as illegal and unjust, the prisoner can only be considered in the light of an ‘accused person,’ as the sentence is by the act of reference suspended.”

The judgment of the Court was delivered by

LOCK, J.—With regard to the question asked by the Sessions Judge, we think that the words “accused person” used in section 436 do not apply to a party who has been convicted by the Magistrate, and from whose sentence there is no appeal, under section 411 of the Criminal Procedure Code.

\* Reference from the Sessions Judge of West Burdwan, under section 434 of the Code of Criminal Procedure.