

Sudder Ameen and Moonsiffs. Whether that view was correct or no, those Acts have been since wholly repealed by Act X. of 1861; consequently, the provisions of section 24, Regulation IV. of 1793, if they are still in force, now stand as they originally did, applicable only to the Courts of the Zilla Judges. It, therefore, seems to me that there is no ground for holding that resistance of process of the subordinate Civil Courts can be dealt with by those Courts under the Regulation of 1793. It also appears to me more than doubtful, whether the provisions of the section are not superseded by section 2 of the Indian Penal Code, in so far as any case of resistance of process falls within the provisions of the Code.

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THE QUEEN  
v.  
BHAGAI  
DAFADAR.

*Before Sir Barnes Peacock, Kt., Chief Justice, Mr. Justice Bayley, Mr. Justice L. S. Jackson, Mr. Justice Macpherson, and Mr. Justice Glover.*

THE QUEEN v. SRIKANT CHARAL.\*

*Criminal Procedure Code (Act XXV. of 1861), ss. 362 and 363—Pleading Guilty—Assessors.*

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A conviction of a prisoner on a plea of guilty before a Court of Session is valid, although there were no Assessors.

See also  
Ind. L. R.  
3 Calc. 756.

ONE Srikant Charal pleaded guilty to the charge of voluntarily giving false evidence in a stage of judicial proceeding. He was sentenced by the Sessions Judge of Dinagepore, who did not employ any Assessors for the trial of the case.

The case came up before L. S. JACKSON, J., on review of Jail Delivery Statement; and he referred it to a Full Bench with the following remarks:

“A letter (1) of the Registrar of this Court, dated 28th February 1866, para. 2, states that where the prisoner pleads guilty, the opinion of the Assessors is unnecessary. This letter, or the extract containing this opinion, having been printed in the Weekly Reporter, is doubtless accepted as authority, and the Judge in this case improves upon the ruling by not employing Assessors at all. I think the opinion expressed in the letter is incorrect, and the course taken by the Judge in this case unwarranted by law. It appears to me that, by

\* Referred on review of Jail Delivery Statement by the Judge of Dinagepore.

(1) No. 157, to the Officiating Sessions Judge of Cuttack.

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the terms of section 324 of the Criminal Procedure Code, where trials are not by Jury, the Court of Session is not duly constituted without Assessors who are members of it; that with a view to the "commencement of the trial," as provided in section 362, the accused must be brought before a Court so constituted; and if he plead guilty, the Assessors, as members of the Court, ought to give their opinion whether or not he should be convicted on his plea, this being a matter in the discretion of the Court, though of course the decision on this, as on other points, is vested exclusively in the Judge. It may be objected, with reference to the part of the language of sections 362 and 363, that in such cases there is no trial, inasmuch as the accused has pleaded guilty instead of "claiming to be tried," and that Assessors are only needed with a view to "trial" (324). But I think it clear that the word "trial" is used in many sections of the Code to indicate a judicial proceeding, in which an accused person has been convicted or acquitted, and not particularly a proceeding in which the issue has been tried by the Court or Jury, *e. g.* sections 381 and 408 (for I presume that a man who has been convicted on his own plea of guilty may yet appeal, as for instance, against the legality of the sentence.) But if there has been no trial, in cases where the accused pleads guilty, then the Code has provided neither procedure for passing sentence nor right of appeal in such cases.

I think the matter should be laid before a Full Bench, with a view to determine the law on this point, and to get rid of the letter above quoted."

The opinion of the Full Bench was delivered by—

PEACOCK, C. J.—We are of opinion that in the case of a prisoner's pleading guilty before a Court of Session, the conviction upon that plea is valid, although there are no Assessors. See sections 362 and 363 of the Code of Criminal Procedure. If the accused refuse to plead, or claim to be tried, the Court must proceed to try the case; and in that case, where the trial is not by Jury, it must, according to section 324, be conducted with the aid of two or more Assessors as members of the Court.