

REG. v. SHOWDAR GHENAR *et al.*1870.
June 13.

Opium—Smuggled Opium, Possession of—Penalty—Reg. XXI. of 1827, Sec. 4.

Where several persons knowingly harbour, keep, or conceal a parcel of smuggled opium, one penalty of double the value of such opium, and of double the amount of duty leviable upon it, only, is recoverable, under Reg. XXI. of 1827, Sec. 4.

Reg. v. Vakatchand (1 Bom. H. C. Rep. 50) overruled.

Reg. v. Bajgur Vanegur (2 Morris's Fouzdaci Rep. 673) approved.

THE accused, two in number, were tried and convicted by G. H. Johns, Magistrate F. P. in the Ahmedábád district, of keeping smuggled opium; and the forfeiture of double the value of the smuggled opium, and of double the amount of duty leviable upon it, was ordered to be divided equally between them. The Magistrate of the District of Ahmedábád, considering this decision contrary to the ruling of the High Court in *Reg. v. Vakatchand (a)*, referred the case for the orders of the High Court.

The case came on for hearing on the 18th of November 1869, before GIBBS and MELVILL, JJ., who referred it to a Full Bench, consisting of COUCH, C.J., WARDEN, WESTROPP, GIBBS, and MELVILL, JJ.

In the absence of COUCH, C.J., (b) his judgment was this day read on this behalf by WESTROPP, C.J.

COUCH, C.J.:—This is a conviction, under Reg. XXI. of 1827, Sec. 4, of knowingly keeping smuggled opium, by which two persons have been convicted of the offence; and the forfeiture of double the value of the opium, and double the amount of duty leviable on it, has been equally divided between them; and, as this is contrary to the decision of this Court in *Reg. v. Vakatchand et al. (supra)*, the case has been referred to us by the Magistrate of Ahmedábád.

As there was in that case an unanimous ruling of six of the three Judges of the High Court, Sir Joseph Arnould and

(a) 1 Bom. H. C. Rep. 50.

(b) Since the case was heard, appointed Chief Justice of Calcutta.