

1872.
Ganprasad
bin
Sobhárám.

The Court (MELVILL and KEMBALL, JJ.) took time to consider its judgment and, on the 7th of february, reversed the order of the District Magistrate, which it considered to be arbitrary and unjust, and referred to the remarks of the Court in the case of *Reg v. Dalsukram Haribhai (f)*.

order reviewed.

—:O:—

[APPELLATE CRIMINAL JURISDICTION.]

REG. V. VAKTÁ valad LAKHU.

Feb. 8.

Pound-keeper—Act I. of 1871, Sections 6 and 27.

Where a Magistrate convicted, under Section 27 of Act I. of 1871, a person who was not himself a pound-keeper, but was merely entertained by the Police Pátíl, who was *ex officio* pound-keeper under Section 6 of the Act.

The High Court annulled the Conviction and sentence passed upon the accused.

THIS case was referred for the orders of the High Court by A. A. Borradaile, Magistrate of the District of Ahmadabad, who made the following observations:—

“Under the provisions of Section 434 of the Code of Criminal Procedure, I have the honor to forward, for the orders of the Honorable Judges, the papers and proceedings of the Second Class Subordinate Magistrate of Veerangám, Azam Prágji Anandráam, in the case of *Reg. v. Vaktá Lakhu*, convicted and sentenced, under Section 27 of Act I. of 1871, to pay a fine of one Rupee.

“The word ‘Pound-keeper’, as used in Section 27, under which the accused is convicted, is defined in Section 6 which contains special provision in regard to Pound-keepers in the Bombay Presidency.

“The accused in this case is not a Police Pátíl, but a person merely entertained by the Police Pátíl of Veerungám, who is *ex officio* the Pound-keeper, to look after the impounded cattle and to water and feed them.

"I am therefore, of opinion that the proceedings of the Subordinate Magistrate are illegal."

1872.

Reg.

v.

Vaktá
valad
Lakhu.

On the 8th February 1872, the proceedings were considered by Melvill and Kembal, JJ.

PER CURIAM:—The proceedings of the Subordinate Magistrate of Veeramgáon in the case of the said Vaktá Lakhu must be annulled, and the fine, if levied, be returned.

Proceedings annulled.

[APPELLATE CRIMINAL JURISDICTION.]

Feb. 8.

REG. V. DHORI KULLAN.

*Obstructing Public Servant—Refusal of Cart to a Government officer—
Ind. Pen. Code Sec., 186.*

The refusal of a cart-owner to give his cart on hire to a Government officer does not constitute the offence of obstructing a public servant in the discharge of his public functions within the meaning of Sec. 186 of the Indian Penal Code.

THE accused was the owner of a cart. He refused to give it on hire to a Government officer who applied for it. He was, therefore, prosecuted before the first class Subordinate Magistrate of Dholká, in the District of Ahmadabad. The Magistrate convicted him of the offence of obstructing a public servant in the discharge of his public functions, and, under Section 186 of the Penal Code, sentenced him to pay a fine of Rs. 4, or in default, to suffer simple imprisonment for seven days.

The Magistrate of the District of Ahmadabad (A. A. Borradaile) considered the conviction of, and sentence passed upon, the accused to be illegal, and submitted the proceedings for the consideration and orders of the High Court, under Section 434 of the Code of the Criminal Procedure.

The proceedings were considered in Court by Melvill and Kembal, JJ., on the 8th February 1872.

PER CURIAM:—The Court orders that the conviction and sentence passed upon Dhori Kullán be reversed and that the fine, if levied, be returned.

Conviction and sentence reversed.