

Before Mr. Justice Markby and Mr. Justice Prinsep.

1878

April 30.

IN THE MATTER OF CHUMMAN SHAH AND ANOTHER.*

Confession—Attestation when unnecessary—Criminal Procedure Code (Act X of 1872), ss. 324, 346.

The attestation required by s. 346 of the Criminal Procedure Code is unnecessary when a confession is made in Court to the officer trying the case at the time of trial.

THE only question in this case was whether a conviction of a prisoner by a Deputy Magistrate, based mainly upon a confession made by the prisoner in Court to such Deputy Magistrate, ought to be quashed on the ground that the record of the confession had not been attested as required by s. 346 of the Criminal Procedure Code.

The Deputy Magistrate had convicted the prisoner under s. 411 of the Indian Penal Code, and sentenced him to one year's rigorous imprisonment.

The Sessions Judge doubted whether this conviction could stand, and referred the matter to the High Court, which ruled as follows :

PRINSEP, J. (MARKBY, J., concurring).—It was unnecessary for the Magistrate to record any "confession" of Chumman Shah, since he was competent on the admission of Chumman to sentence him without any further record (s. 324, Code of Criminal Procedure).

* Criminal Reference by F. Cowley, Esq., Officiating Sessions Judge of Monghyr, dated the 24th April 1878.