

CRIMINAL REVISION.

Before Mr. Justice Amcer Ali and Mr. Justice Stevens.

REASUT (PETITIONER) v. COURTNEY (OPPOSITE PARTY).³

1900
November 28.

Jurisdiction—Reformatory School—Detention in, in lieu of sentence of imprisonment—Power of High Court to alter or set aside such sentence—Reformatory Schools Act (VIII of 1897), ss. 8 and 16.

S. 16 of the Reformatory Schools Act does not in any way take away the jurisdiction of the High Court to alter or set aside the sentence, in substitution of which an order for detention is made.

The power of the High Court remains intact to consider the propriety or legality of any sentence passed upon a youthful offender.

THE accused, a boy, was found abstracting a piece of coal valued about six pies from a waggon. He was tried summarily by a Deputy Magistrate of Scaldah, who convicted him of theft and sentenced him to rigorous imprisonment for one month, and, in lieu thereof, directed that he be detained in the Reformatory School for four years.

Babu *Horendra Nath Mitter* for the petitioner.

No one appeared for the opposite party.

The judgment of the Court (AMEER ALI and STEVENS, JJ.) was as follows :—

In this matter a Rule was issued on the District Magistrate to show cause, why the sentence should not be modified on the ground that this was a very trifling theft, and that, so far as appears from the record, it was the petitioner's first offence.

The trial before the Deputy Magistrate was summary, but the age of the accused, who is a mere boy, has not been found. He is stated to have been found abstracting a piece of coal from a waggon, the value of which is said to be about six pies. The trying Magistrate, as already observed, without finding what the age of

³ Criminal Revision No. 790 of 1900, made against the order passed by Moulvie Bazlul Karim, Deputy Magistrate of Scaldah, dated the 21st of August 1900.

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the boy was and without stating whether, in his opinion, he was a proper person to be an inmate of the Reformatory School, sentenced him to rigorous imprisonment for one month and in lieu thereof directed that he be detained in the School for four years. The evidence recorded is extremely slight. There is nothing to show that the petitioner was ever before convicted or what his antecedents are, and we certainly think that a sentence of one month's rigorous imprisonment was not a proper sentence for the offence committed.

Our attention has been called to the provisions of ss. 8 and 16 of the Reformatory Act. S. 16 provides that a Court of Appeal or Revision should not alter or reverse any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment. But it does not in any way take away the jurisdiction of this Court to alter or set aside the sentence, in substitution of which the order for detention is made. The power of the Court remains intact to consider the propriety or legality of any sentence passed upon a youthful offender. In that view, we are of opinion that the sentence of one month's rigorous imprisonment is an improper sentence. The accused is a young lad, for even in the descriptive roll sent up from the police, he is put down as 15 years of age. And this appears to be his first offence. We accordingly set aside the sentence of imprisonment for one month and in lieu thereof, considering the nature of the offence, direct that the petitioner do undergo a whipping of five stripes by way of school discipline and then be discharged from custody.

D. S.

ORIGINAL CIVIL.

Before Mr. Justice Stanley.

GURMUK ROY AND OTHERS v. TULARAM.*

1901
 June 3.

Practice - Documents, inspection of—Civil Procedure Code (Act XIV of 1882), s. 130—Discovery.

Where inspection of documents is objected to on the ground of immateriality, the Court will, if necessary, order them to be produced for its own inspection, in order to judge of their materiality.

* Suit No. 864 of 1900.