

(1920) 06 BOM CK 0021**Bombay High Court****Case No:** None

Emperor APPELLANT

Vs

Bhagwan Krishna Thorat RESPONDENT

Date of Decision: June 14, 1920**Acts Referred:**

- Bombay District Police Act, 1890 - Section 62

Citation: (1921) ILR (Bom) 203**Hon'ble Judges:** Shah, J; Crump, J**Bench:** Division Bench

Judgement

1. In this case the Second Class Magistrate of Barsi convicted the accused, who pleaded guilty, u/s 62 of the Bombay District Police Act (IV of 1890), and sentenced him to pay a fine of Rs. 5. The District Magistrate has made a reference to this Court recommending that the conviction and sentence should be set aside.

2. The reference is based firstly on the ground that the Second Class Magistrate had no jurisdiction u/s 62 of the Bombay District Police Act as he was not specially authorised to try offences under that section. But we find that the section is amended by Bombay Act III of 1915 whereby the word "second" is substituted for the word "first" in Sub-section 2 of Section 62. The effect of the modification is that the Second Class Magistrate without being specially invested with jurisdiction under the section would be competent to try offences punishable under that section. That ground therefore is not sustainable.

3. The second ground is that the Prevention of Cruelty to Animals Act (XI of 1890) has been extended to the Municipal District of Barsi in the Sholapur District and that consequently special provisions such as are contained in Section 62 of the Bombay District Police Act cease to have operation in that locality. There again the District Magistrate seems to be mistaken. For Sub-section 3 of Section 1 of Act XI of 1890 provides that the whole or any part of any other enactment in force in the local area

for the prevention of cruelty to animals shall cease to have effect in the local area if the Local Government has by notification in the Official Gazette given a direction to that effect. Sub-section 3 of Section 1 authorizes the Government to give such direction, if so minded, and Sub-section 4 enables the Government to cancel or vary any notification under sub-sections 2 and 3 of Section 1. The only notification that is referred to by the District Magistrate and that we have been able to find, is one under Sub-section 2 extending Act XI of 1890 to the Municipal District of Barsi. But it is not suggested that there has been any notification under Sub-section 3, nor have we been able to find any such notification. Section 62 of the Bombay District Police Act, therefore, had not ceased to have operation at Barsi at the date of the offence in question and the trial Court was perfectly competent to make an order under that section.

4. We therefore discharge the rule.