

(1926) 03 BOM CK 0043

Bombay High Court

Case No: None

Shidlingappa Gurulingappa

APPELLANT

Vs

Emperor

RESPONDENT

Date of Decision: March 24, 1926

Acts Referred:

- Criminal Procedure Code, 1898 (CrPC) - Section 35(3)
- Penal Code, 1860 (IPC) - Section 323, 354

Citation: AIR 1926 Bom 416

Hon'ble Judges: Macleod, C.J

Bench: Division Bench

Judgement

Macleod, C.J.

In this case the applicant was convicted of offences under Sections 354 and 323, Indian Penal Code, and sentenced to fines of Rs. 50 and Rs. 30, respectively, by the First Class Magistrate, Bagevadi. He appealed to the-Sessions Judge. The Sessions Judge held; that no appeal lay on the ground that Section 35, Sub-section 3, of the Criminal Procedure Code, providing that the aggregate of, consecutive sentences passed under the section in case of conviction for several offences at one trial, should for the purpose of appeal be deemed to be a single sentence, could refer only to sentences of imprisonment. So far we think he was right but the right of appeal against a conviction by a Magistrate of the First Class is given by Section 408. That right is restricted by the provision of Section 413, which directs that notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding; one month only, or in which a Court of Session or District Magistrate or other Magistrate of the First Class passes a sentence of fine not exceeding fifty rupees only.

2. In this case the Magistrate has passed two sentences of fine amounting in the aggregate to Rs. 80. Therefore in effect, a sentence of fine exceeding fifty rupees has been passed and an appeal lies. We return the case to the Sessions Judge to hear the appeal according to law.