

(1912) 05 BOM CK 0003
In the Bombay High Court
Case No : Criminal Reference No. 36 of 1912

Emperor	Vs	APPELLANT
Ananda Laxman Babaji		RESPONDENT

Date of Decision : 25-05-1912

Acts Referred:

Penal Code, 1860 (IPC) — Section 379

Citation : (1912) 14 BOMLR 504

Hon'ble Judges : Macleod, J;Heaton, J

Bench : Division Bench

Judgement

1. In this case the accused was convicted by the Second Class Magistrate of Nandgaon for having committed theft u/s 379, Indian Penal Code, and sentenced to one month's rigorous imprisonment. Notice was issued by the High Court against the accused to show cause why the sentence should not be enhanced as it appeared that the Magistrate had taken too lenient a view of the case. We must deal with the question of enhancement on the footing that the accused was properly convicted and that the Magistrate found correctly that the accused had committed the theft in a railway train. This is an offence of a peculiarly heinous character, extremely difficult to discover, and therefore profitable to those who are engaged in committing such thefts, and it is desirable, we think, that when the Magistrate is satisfied that an accused has committed such an offence, the sentence should be of a deterrent nature. In this case it appears that the accused had already been once convicted of theft in 1907, and had been three times bound over for good behaviour. Taking all these facts into consideration, we think, that the proper sentence in this case should be one of twelve months' rigorous imprisonment. Therefore, we enhance the sentence accordingly. We may point out that we could not enhance the sentence to a greater extent than two years, although the District Magistrate has suggested that three years would be the proper punishment.