

CRIMINAL SENTENCES, BENGAL AND MADRAS ACT 1848

ACT No. XIX. of 1848

(Rep., Act 17 of 1862)

[2nd September, 1848.]

Passed by the Governor General of India in Council, On the 2nd September 1848.

For better defining the Law as to revision of the sentences of Subordinate Criminal Courts in the Presidencies of Bengal and Madras.

WHEREAS it has been doubted how far Section V. Regulation IX. 1831 of the Bengal Code is repealed by Act XXXI. 1841, and what power the Foujdaree Adawlut at Madras has under Section XXXV. Act VII. 1843, It is enacted as follows:

I. So much of Section V. Regulation IX. 1831, of the Bengal code, as is now in force, and also Section XXXV. Act VII. 1843, are repealed.

II. The Nizamut Adawlut in the Presidency of Bengal and Foujdaree Adawlut in the Presidency of Madras, in any case in which it shall appear to either of them upon a review of the Abstract Statements or Calendars of prisoners punished without reference, that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the Abstract Statement or Calendar, shall annul the sentence, and shall certify to the subordinate Court the sentence or sentences which may lawfully be passed for such offence, and there upon the subordinate Court shall pass a new sentence according to Law, and shall amend the record in accordance therewith.

III. The said Nizamut Adawlut or foujdaree Adawlut, in any case in which it shall appear to either of them upon a review of the Abstract Statements or Calendars of prisoners punished without reference that the verdict or judgment pronounced on any prisoner was not warranted by the evidence, or that his sentence was too severe, may, if it thinks fit, require the Judge of the Court in which the conviction was had to certify under his hand all the evidence taken in the case affecting such prisoners, with any observations which the Judge may be desirous of making in explanation of the verdict, judgment or sentence; and thereupon the Nizamut Adawlut or Foujdaree Adawlut, as the case may be, may annul such verdict, judgment and sentence, if the verdict or judgment shall appear to it not warranted by the evidence, or mitigate the sentence, if it shall appear too severe, and in either case shall certify its proceedings to the Court in which the conviction was had, which shall thereupon make such orders as are conformable to the decision of the Nizamut Adawlut, or Foujdaree Adawlut, and, if necessary, amend the record in accordance therewith.

IV. Instead of proceeding under this Act, the said Nizamut Adawlut or Foujdaree Adawlut may, whenever it thinks fit call for the whole record of any criminal trial in any subordinate Court, and pass thereon such orders as it think fit, but not so as to enhance the punishment awarded, or punish any person acquitted in the subordinate Court.
