

1922.

[IN REVISION.]

Present: Ennis J.

THE KING v. MENDIYA.

*D. C. Galle, 14,512.*

*Criminal Procedure Code, s. 321—Accused sentenced to a term of imprisonment—Sentence to run concurrently with a sentence accused was undergoing in another case.*

Where the Court sentenced an accused to a term of imprisonment, and directed the sentence should run concurrently with the sentence the accused was undergoing in another case.

*Held*, the order that the sentences were to run concurrently was not objectionable in the circumstances.

**T**HIS was an application for revision by the Solicitor-General.

*Jansz, C.C.*, in support.

September 13, 1922. ENNIS J.—

In this case the learned Judge sentenced one accused to 4 years rigorous imprisonment and another one to 2 years rigorous imprisonment, and directed that the sentences should run concurrently with the sentences the accused were at present undergoing. It appears that the accused were undergoing imprisonment in another case. It is urged that the learned Judge had no power to make his own sentence run concurrently with a sentence in some other case, because section 321 provides that where a person is actually undergoing imprisonment and is sentenced to a further term, such further term shall commence at the expiration of the imprisonment to which he had been previously sentenced.

Had the learned Judge so wished, he himself could have made a calculation and have imposed a sentence which would take into account the sentences the accused were already undergoing. Such a calculation might have necessitated further information, not at his disposal at the moment of giving the sentence, to enable him to make allowance in his own sentence for the previous sentence. There is no objection in my opinion to the use of the expression that the sentences should run concurrently with the sentences the accused are already undergoing. It is merely a matter of terminology.

The application is refused.

*Application refused.*