

Present : Shaw J.

1921.

IN REVISION.

P. C.—Batticaloa, 8,306.

*Power of Supreme Court to vacate its own order made per incuriam—
Revision—Jurisdiction.*

Where the Supreme Court under the mistaken belief that the Police Magistrate had no jurisdiction, set aside the conviction and sent the case back for non-summary proceedings.

Held, that the Supreme Court had power thereafter acting in revision to vacate its own order made *per incuriam*.

THE facts appear from the judgment.

Mangakoon, C.C., in support.

April 25, 1921. SHAW J.—

This is an application in revision. The case previously came before me in appeal from the decision of the Police Magistrate. While dismissing the appeal on the facts, I was at the time of opinion that the Magistrate had no jurisdiction to try the case summarily, my attention not having been called to the change effected in the Penal Code by Ordinance No. 31 of 1919, section 22 (b). I accordingly set aside the conviction, and sent the case back for the Magistrate to take non-summary proceedings. This decision of mine was, undoubtedly wrong, and made *per incuriam*. The case of *The Police Officer of Mawalla v. Galupaita*¹ appears to satisfactorily show that I have power now to put the matter right in revision. I accordingly in revision vary the order I made on the subsequent occasion, and dismiss the appeal then before me.

Appeal dismissed.