

THE
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WAAS v. PERERA.

P. C., *Chilaw*, 11,462.

1897.
June 28.

Police Court—Jurisdiction—Obstruction of public way—Penal Code, s. 276—Jurisdiction of village tribunal—Rule by village community.

The existence of a rule duly made by a village community to the effect that "it shall not be lawful for any person to obstruct any village path, road, or river, water-course, lake, or ela, or other village property," does not deprive the Police Court, which has territorial jurisdiction over the place where the rule is in operation, of the power to try the offence of obstruction of a public way under section 276 of the Penal Code.

THE complaint was that the accused had blocked up a public cartway which went past the complainant's house from a high road, and had so committed an offence under section 276 of the Penal Code.

At the close of the complainant's examination, the proctor for the accused contended that, as the complainant had admitted that he had brought a case against the accused before the Gansabhawa Court, he should not be allowed to go on with the case before the Police Court, in that the Gansabhawa Court had exclusive jurisdiction in such cases.

The Police Magistrate (Mr. Allan Beven) upheld the objection in these terms:—

"I see that under section 9 of the Criminal Procedure Code the jurisdiction of village tribunals is specially saved. I presume this rule extends to village committees as well. Anyhow I think the intention of that section is that a Police Court

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“ is not to exercise any jurisdiction in respect of any offence over
“ which any village court has been given exclusive jurisdiction
“ under any special law.

“ In this case, the Village Communities' Ordinance of 1889,
“ published in *Government Gazette* No. 5,338 of 22nd February,
“ 1895, by rule 8 gives jurisdiction to the village committee to
“ try the offence of blocking up a road. Hence I do not think I
“ have any right to interfere.”

On appeal by the complainant against the order of discharge of
the accused—

Sampayo, for appellant.

28th June, 1897. LAWRIE, A.C.J.—

I am unable to understand why the Police Magistrate held that
his jurisdiction to try a complaint under section 276 of the Penal
Code had been ousted by the rules made by the village communities
of Pitigal korale south.

It may be that village communities have exclusive jurisdiction
to try breaches of the rules made by them and approved by the
Governor, but the present complaint is not that a village community
rule was broken, but that the accused committed an offence
punishable under the Penal Code. The question is, Did he commit
that offence, or did he not? I should not be surprised to hear that
after investigation the accused was acquitted and the complainant
referred to proceedings under chapter X. of the Criminal Procedure
Code, but I think it is clear that he is not liable under the village
rules. Rule 8 of the village community referred to is: “ It shall
“ not be lawful for any person to obstruct any village path, road,
“ or river, water-course, lake, or ela. or other village property.”

That rule seems to me to refer to village property, to roads, &c.,
maintained by the village. The road referred to in the plaint
is not a village road.

I remit the case to the Police Court to be proceeded with in
due course.

